United Nations

Report of the International Court of Justice

1 August 2000-31 July 2001

General Assembly

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Fifty-sixth Session
Supplement No. 4 (A/56/4)

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I. SUMMARY

1. The International Court of Justice, principal judicial organ of the United Nations, consists of 15 judges elected for a term of nine years by the Security Council and General Assembly of the United Nations. Every three years one third of the Court is renewed. The last such renewal took place on 3 November 1999. The next renewal will occur in autumn 2002 and will take effect on 6 February 2003.

2. Last year Judges Gilbert Guillaume and Shi Jiuyong became respectively President and Vice-President of the Court for terms of three years. Further, on 10 February 2000, the Court elected Mr. Philippe Couvreur as Registrar for a term of seven years. Subsequently, on 19 February 2001, the Court re-elected Mr. Jean-Jacques Arnaldez to the post of Deputy-Registrar, likewise for a term of seven years.

3. Finally, it should be noted that, in line with the increase in the number of cases, the number of judges ad hoc chosen by States parties has also been increasing. It currently stands at 19.

4. As the Assembly will be aware, the International Court of Justice is the only international court of a universal character with general jurisdiction. That jurisdiction is a dual one.

5. In the first place, the Court has to decide upon disputes freely submitted to it by States in the exercise of their sovereignty. In this respect, it should be noted that, as at 31 July 2001, 189 States are parties to the Statute of the Court and that 63 of them have deposited with the Secretary-General a declaration of acceptance of the Court's compulsory jurisdiction in accordance with Article 36, paragraph 2, of the Statute. Further, some 260 bilateral or multilateral treaties provide for the Court to have jurisdiction in the resolution of disputes arising out of their application or interpretation. Finally, States may submit a specific dispute to the Court by way of special agreement, as a number have done recently.

6. The Court may also be consulted on any legal question by the General Assembly or the Security Council, as well as by any other organ of the United Nations or of the specialized agencies having been so authorized by the General Assembly.

7. Over the past year, the number of cases before the Court has remained high. Whereas in the 1970s the Court had only one or two cases on its docket at any one time, between 1990 and 1997 this number varied between 9 and 13. As of 31 July 2001, it stands at 22.

8. These cases come from all over the world, three being between African States, one between Asian States, 12 between European States and one between Latin American States, whilst five are of an intercontinental character.

9. Their subject-matter is extremely varied. Thus, the Court's docket traditionally contains cases concerning territorial disputes between neighbouring States seeking a determination of their land and maritime boundaries, or a decision as to which of them has sovereignty over particular areas. This is the position for three cases concerning, respectively, Cameroon and Nigeria, Indonesia and Malaysia and Nicaragua and Honduras. Another classic type of dispute is where a State complains of treatment suffered by one or more of its nationals in another State (this applies to cases between Guinea and the Democratic Republic of the Congo and between Liechtenstein and Germany).

10. Other cases relate to events which have also come to the attention of the General Assembly or the Security Council. Thus the Court is seised of disputes between Libya and, respectively, the United States of America and the United Kingdom following the explosion of an American civil aircraft over Lockerbie in Scotland, while Iran has brought proceedings over the alleged destruction of oil platforms by the United States in 1987 and 1988. Bosnia and Herzegovina and Croatia have, in two separate cases, sought the condemnation of Yugoslavia for violation of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide. Yugoslavia itself has brought proceedings against eight member States of NATO, challenging the legality of their action in Kosovo. Finally, the Democratic Republic of the Congo contends that it has been the victim of an armed attack on the part of Uganda.

11. This increase in the number and diversity of cases submitted to the Court needs, admittedly, to be qualified to take account of an element of linkage. Thus two sets of proceedings relate to the Lockerbie incident, while eight have as their subject-matter the action by NATO member States in Kosovo. However, each one of these proceedings still involves separate pleadings, which have to be translated and processed. Moreover, the legal problems which they raise are by no means always identical.

12. Furthermore, many cases have been rendered more complex as a result of preliminary objections by respondents to jurisdiction or admissibility, and of counter-claims and applications for permission to intervene — not to mention requests by applicants, and even sometimes respondents, for the indication of provisional measures, which have to be dealt with as a matter of urgency.

13. The situation would undoubtedly be worse, were it not for the Court's sustained activity over the past year.

14. First, in a Judgment of 16 March 2001, the Court ruled on the merits of a territorial and maritime dispute between Qatar and Bahrain. It held that the State of Bahrain has sovereignty over the Hawar islands, whilst the State of Qatar has sovereignty over Zubarah. At the same time it recognized Bahrain's sovereignty over the island of Qit'at Jaradah and Qatar's over Janan Island (including Hadd Janan). As far as the low-tide elevation of Fasht ad Dibal was concerned, the Court found that it fell within Qatar's sovereignty. In light of these various findings, the Court fixed the single maritime boundary separating the various maritime zones of Bahrain and Qatar, whilst recalling that vessels of the State of Qatar enjoy in the territorial sea of Bahrain separating the Hawar islands from the other Bahraini small islands the right of innocent passage accorded by customary international law. This Judgment, which was well received in the region, put an end to a long-standing territorial dispute which had for many years compromised relations between the two States. It also brought closure to litigation marked by abundant pleadings, both written (over 6,000 pages of documents) and oral (five weeks of hearings), and by deliberations commensurate with the problems faced.

15. Then, in a Judgment of 27 June 2001, the Court also ruled on the merits of the dispute between the Federal Republic of Germany and the United States of America following the execution in the United States of two German nationals, the LaGrand brothers. This dispute concerned the implementation by the United States of the 1963 Vienna Convention on Consular Relations.

16. The Court found in this case that, by not informing the LaGrand brothers without delay following their arrest of their rights under Article 36, paragraph 1 (b), of the Convention, the United States had deprived Germany of the possibility, in a timely fashion, of rendering the assistance provided for by the Convention to the individuals concerned. In so doing, the United States had failed to take account of its obligations both to Germany and to the LaGrand brothers under Article 36, paragraph 1.

17. The Court found further that, by not permitting the review and reconsideration, in light of the rights set forth in the Convention, of the convictions and sentences of the LaGrand brothers after these violations had been established, the United States had, in this regard also, breached its obligations under the Convention.

18. For the future, the Court took note of the commitment undertaken by the United States to ensure implementation of the specific measures adopted in order to avoid any further breach of Article 36, paragraph 1 (b), and found that this commitment must be regarded as meeting Germany's request for a general assurance of non-repetition. The Court, however, added that, should German nationals be subsequently sentenced to severe penalties without their rights having been respected, the United States must, by means of its own choosing, allow review and consideration of the conviction and sentence by taking account of the violation of the rights set forth in the Convention.

19. Finally, this case led the Court to rule for the first time on the legal effects of its orders for the indication of provisional measures under Article 41 of the Statute. The Court held that such orders are of a binding nature and that this was the case as regards its Order of 3 March 1999, whereby it indicated to the United States that the latter should "take all measures at its disposal" to stay the execution of Walter LaGrand pending the Court's final decision. The Court concluded that the United States had not taken all the measures in question, and accordingly that it had breached the obligation incumbent upon it under the Order.

20. During the past year the Court had further to rule on a request for the indication of provisional measures submitted by the Democratic Republic of the Congo against Belgium in the case concerning the Arrest Warrant of 11 April 2000. In that case, the Democratic Republic of the Congo has challenged the legality under international law of an arrest warrant issued by a Belgian investigating judge against Mr. Yerodia (who, at the time of filing of the Application, was Foreign Minister of the Congo). By way of protective measure, the Congo sought "the immediate discharge of the disputed warrant". The Court found itself prima facie competent to entertain the Application. It further found that the Congo's request had not become moot by reason of the fact that Mr. Yerodia had ceased to be Foreign Minister and was now serving as Minister of Education. However, it considered that, in these circumstances, it had not been established that irreparable prejudice might be caused in the immediate future to the Congo's rights. It therefore rejected both Belgium's request that the case be removed from the List and the Congo's request for the indication of provisional measures. But at the same time, it decided that a decision on the Congo's Application should be reached with all expedition. Hearings are currently scheduled for October 2001.

21. During the same period, 32 Orders were issued by the Court, the President or the Vice-President concerning the organization of the proceedings in current cases.

22. The Court has to date been able to proceed, or to begin to proceed, to the consideration of those cases which are ready for hearing. However, the written phase in a number of cases will be completed shortly and the problems referred to in the Court's last report will then become manifest.

23. Conscious of these problems, the Court had already in 1997 taken various measures to rationalize the work of the Registry, to make greater use of information technology, to improve its own working methods and to secure greater collaboration from the parties in relation to its procedures. An account of these various measures was set out in the report submitted to the General Assembly in response to Assembly resolution 52/161 of 15 December 1997 (see Appendix 1 to the Report of the Court for the period 1 August 1997 to 31 July 1998). These efforts have been continued, in particular in relation to information technology, and have enabled the Court to accomplish the tasks required of it in the year just past. The Court has also taken steps to shorten and simplify proceedings, in particular as regards preliminary objections and counter-claims (see pp. 102-104). It is continuing its revision of its Rules and will be adopting further measures in this regard before the end of the year. It welcomes the co-operation it has received in this respect from the parties as regards both the number and volume of written pleadings and the length of hearings, with pleadings in some cases being provided by the parties in both of the Court's working languages.

24. The Court did, however, stress in its last report that, despite all its efforts, it would be unable to cope in the future with the increase in its work without a significant increase in its budget. Since the impact of the Court's increased workload would be felt most immediately by the Department of Linguistic Matters, the Court had already submitted in May 2000 a supplementary budget request for the biennium 2000-2001 essentially concerning that Department. In December 2000, the General Assembly approved a supplementary budget for the year 2001, creating 12 new temporary translation posts (3 at grade P-4 and 9 at grade P-3) plus two temporary General Service posts at grade G-4, with an additional appropriation of 117,400 dollars for short-term temporary assistance, particularly secretarial staff.

25. For the biennium 2002-2003, the Court has been led to conduct a more general examination of its overall needs, given that the number of cases on its docket remains high. It has found itself obliged to request substantial appropriations. They concern the Registry Departments other than the Department of Linguistic Matters and also assistance for the judges themselves. At the time of

drafting of this report these requests are currently under consideration by the ACABQ, and the Court hopes that they may meet with a favourable reception.

26. In sum, over the year 2000-2001 the International Court of Justice has carried out its judicial task with care and determination. It welcomes the increased confidence which States have shown in the Court's ability to resolve their disputes. However, it will be unable to respond to that confidence without the additional resources which it hopes will be accorded to it.

II. ORGANIZATION OF THE COURT

A. Composition

27. The present composition of the Court is as follows: President: Gilbert Guillaume; Vice-President: Shi Jiuyong; Judges: Shigeru Oda, Mohammed Bedjaoui, Raymond Ranjeva, Géza Herczegh, Carl-August Fleischhauer, Abdul G. Koroma, Vladlen S. Vereshchetin, Rosalyn Higgins, Gonzalo Parra-Aranguren, Pieter H. Kooijmans, Francisco Rezek, Awn Shawkat Al-Khasawneh and Thomas Buergenthal.

28. The Registrar of the Court is Mr. Philippe Couvreur. The Deputy-Registrar is Mr. Jean-Jacques Arnaldez. Mr. Arnaldez was re-elected by the Court on 19 February 2001 for a term of seven years.

29. In accordance with Article 29 of the Statute, the Court forms annually a Chamber of Summary Procedure, which is constituted as follows:

Members

President, G. Guillaume

Vice-President, Shi Jiuyong

Judges, G. Herczegh, A. C. Koroma and G. Parra-Aranguren

Substitute Members

Judges R. Higgins and A. S. Al-Khasawneh

30. The Court's Chamber for Environmental Matters, which was established in 1993 pursuant to Article 26, paragraph 1 of the Statute, and whose mandate in its present composition runs to February 2003, is composed as follows:

President, G. Guillaume

Vice-President, Shi Jiuyong

Judges, M. Bedjaoui, R. Ranjeva, G. Herczegh, F. Rezek and A. S. Al-Khasawneh

31. In the cases concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United States of America), Libya chose Mr. Ahmed Sadek El-Kosheri to sit as judge ad hoc. In the former of the two cases, in which Judge Higgins recused herself, the United Kingdom chose Sir Robert Jennings to sit as judge ad hoc. The latter has been sitting as such in the phase of the proceedings concerning jurisdiction and admissibility.

32. In the case concerning Oil Platforms (Islamic Republic of Iran v. United States of America), Iran chose Mr. François Rigaux to sit as judge ad hoc.

33. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Bosnia and Herzegovina chose Mr. Elihu Lauterpacht and Yugoslavia Mr. Milenko Kreća to sit as judges ad hoc.

34. In the case concerning the Gabčíkovo-Nagymaros Project (Hungary/Slovakia), Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge ad hoc.

35. In the case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Cameroon chose Mr. Kéba Mbaye and Nigeria Mr. Bola A. Ajibola to sit as judges ad hoc.

36. In the case concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), Indonesia chose Mr. Mohamed Shahabuddeen and Malaysia Mr. Christopher G. Weeramantry to sit as judges ad hoc. After the resignation of Mr. Shahabuddeen, Indonesia chose Mr. Thomas Franck to sit as judge ad hoc.

37. In the cases concerning the Legality of Use of Force (Yugoslavia v. Belgium); (Yugoslavia v. Canada); (Yugoslavia v. France); (Yugoslavia v. Germany); (Yugoslavia v. Italy); (Yugoslavia v. Netherlands); (Yugoslavia v. Portugal) and (Yugoslavia v. United Kingdom), Yugoslavia chose Mr. Milenko Kreća to sit as judge ad hoc; in the cases concerning (Yugoslavia v. Belgium), (Yugoslavia v. Canada) and (Yugoslavia v. Italy), Belgium chose Mr. Patrick Duinslaeger, Canada chose Mr. Marc Lalonde and Italy chose Mr. Giorgio Gaja to sit as judges ad hoc. These have been sitting as such during the examination of Yugoslavia's requests for the indication of provisional measures.

38. In the cases concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Uganda) and (Democratic Republic of the Congo v. Rwanda), the Democratic Republic of the Congo chose Mr. Joe Verhoeven, Burundi Mr. Jean J.A. Salmon, Uganda Mr. James L. Kateka and Rwanda Mr. John Dugard to sit as judges ad hoc.

39. In the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Yugoslavia), Croatia chose Mr. Budislav Vukas and Yugoslavia Mr. Milenko Kreća to sit as judges ad hoc.

40. In the case concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), the Democratic Republic of the Congo chose Mr. Sayeman Bula-Bula and Belgium Mrs. Christine Van den Wijngaert to sit as judges ad hoc.

41. In the case concerning Certain Property (Liechtenstein v. Germany), Liechtenstein chose Mr. Ian Brownlie to sit as judge ad hoc.

B. Privileges and immunities

42. Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

43. In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (I.C.J. Acts and Documents No. 5, pp. 200-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps, who is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (ibid., pp. 210-213).

44. By resolution 90 (I) of 11 December 1946 (ibid., pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that " . . . if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there" and that " . . . judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

45. The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

46. Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

III. JURISDICTION OF THE COURT

A. Jurisdiction of the Court in contentious cases

47. On 31 July 2001, the 189 States Members of the United Nations, together with Switzerland, were parties to the Statute of the Court.

48. Sixty-three States have now made declarations (many with reservations) recognizing as compulsory the jurisdiction of the Court, as contemplated by Article 36, paragraphs 2 and 5 of the Statute. They are: Australia, Austria, Barbados, Belgium, Botswana, Bulgaria, Cambodia, Cameroon, Canada, Colombia, Costa Rica, Cyprus, the Democratic Republic of the Congo, Denmark, Dominican Republic, Egypt, Estonia, Finland, Gambia, Georgia, Greece, Guinea, Guinea-Bissau, Haiti, Honduras, Hungary, India, Japan, Kenya, Lesotho, Liberia, Liechtenstein, Luxembourg, Madagascar, Malawi, Malta, Mauritius, Mexico, Nauru, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, the Philippines, Poland, Portugal, Senegal, Somalia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay and Yugoslavia. The declaration of Lesotho was deposited with the Secretary-General of the United Nations during the 12 months under review, on 6 September 2000. The texts of the declarations filed by the above States will appear in Chapter IV, Section II, of the next edition of the I.C.J. Yearbook.

49. Lists of treaties and conventions which provide for the jurisdiction of the Court will appear in Chapter IV, Section III, of the next edition of the I.C.J. Yearbook. There are currently in force approximately 100 such multilateral conventions and approximately 160 such bilateral conventions. In addition, the jurisdiction of the Court extends to treaties or conventions in force providing for reference to the Permanent Court of International Justice (Statute, Art. 37).

B. Jurisdiction of the Court in advisory proceedings

50. In addition to the United Nations (General Assembly, Security Council, Economic and Social Council, Trusteeship Council, Interim Committee of the General Assembly), the following organizations are at present authorized to request advisory opinions of the Court on legal questions arising within the scope of their activities:

International Labour Organisation;

Food and Agriculture Organization of the United Nations;

United Nations Educational, Scientific and Cultural Organization;

International Civil Aviation Organization;

World Health Organization;

World Bank;

International Finance Corporation;

International Development Association;

International Monetary Fund;

International Telecommunication Union;

World Meteorological Organization;

International Maritime Organization;

World Intellectual Property Organization;

International Fund for Agricultural Development;

United Nations Industrial Development Organization;

International Atomic Energy Agency.

51. The international instruments which make provision for the advisory jurisdiction of the Court will be listed in Chapter IV, Section I, of the next edition of the I.C.J. Yearbook.

IV. FUNCTIONING OF THE COURT

A. Committees of the Court

52. The committees constituted by the Court to facilitate the performance of its administrative tasks are composed as follows:

(a) The Budgetary and Administrative Committee: the President (Chair), the Vice-President and Judges Bedjaoui, Ranjeva, Fleischhauer, Vereshchetin and Kooijmans.

(b) The Committee on Relations: Judges Parra-Aranguren (Chair), Herczegh, Rezek and Al-Khasawneh.

(c) The Library Committee: Judges Koroma (Chair), Higgins, Kooijmans and Rezek.

(d) The Computerization Committee, under the Chairmanship of Judge Higgins, is open to all interested Members of the Court.

(e) The Committee on the Court's Museum: Judges Kooijmans (Chair), Oda, Ranjeva and Vereshchetin.

53. The Rules Committee, constituted by the Court in 1979 as a standing body, is composed of Judges Fleischhauer (Chair), Oda, Bedjaoui, Herczegh, Koroma, Higgins and Buergenthal.

B. The Registry of the Court

54. The Court is the only principal organ of the United Nations to have its own administration (see Art. 98 of the Charter). The Registry is the permanent administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Arts. 22-29 of the Rules). Since the Court is both a judicial body and an international institution, the role of the Registry is both to provide judicial support and to act as an international secretariat. Thus its work is, on the one hand, judicial and diplomatic, while, on the other, it corresponds to that of the legal, administrative, financial, conference and information departments of an international organization. The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar and its duties are defined by instructions drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The Instructions for the Registry were drawn up in October 1946. An organizational chart of the Registry is appended at p. 24.

55. Registry officials are appointed by the Court on proposals by the Registrar or, for General Service staff, by the Registrar with the approval of the President. Short-term staff is appointed by the Registrar. Working conditions are laid down in Staff Regulations adopted by the Court (see Art. 28 of the Court Rules). Registry officials enjoy, generally, the same privileges and immunities as members of diplomatic missions in The Hague of comparable rank. They enjoy a status, remuneration and pension rights corresponding to those of Secretariat officials of the equivalent category or grade.

56. Over the last twelve years, the Registry's workload, notwithstanding its adaptation to new technologies, has grown considerably following the substantial increase in the number of cases brought before the Court. As a result, the Court felt that it was necessary to establish a sub-committee, set up in 1997, to examine the Registry's working methods and make proposals for their rationalization and improvement. The Sub-Committee on Rationalization intensively reviewed all component parts of the Registry and, in November 1997, it presented a report containing observations and recommendations on the administration of the Registry as a whole, as well as observations and recommendations regarding the individual divisions of the Registry. These recommendations concerned work methods, management questions and the organizational scheme of the Registry. In particular, the Sub-Committee recommended that certain measures of decentralization and reorganization be implemented within the Registry. In December 1997, the Court accepted virtually all of the recommendations of the Sub-Committee on Rationalization, and these were subsequently implemented and communicated to the Advisory Committee on Administrative and Budgetary Questions (ACABQ). The General Assembly, in its resolution 54/249, adopted on 23 December 1999, while generally welcoming the measures taken by the Court, also noted

> "with concern that the resources proposed for the International Court of Justice are not proportionate with the workload envisaged and requests the Secretary-General to propose adequate resources for this section in the context of the proposed programme budget for the biennium 2002-2003, commensurate with its increased workload and the large backlog of volumes of Court documents".

57. In this same connection, in view of the fact that the impact of the increase in the Court's workload was most urgent in the Department of Linguistic Matters, in May 2000 the Court submitted a request for a supplementary budget for the biennium 2000/2001. In December 2000, the General Assembly approved a supplementary budget for the year 2001 establishing 12 temporary posts for translators (3 at the P-4 level and 9 at the P-3 level) and two temporary General Service posts at the G-4 level, to provide administrative and secretarial support for the Department of Linguistic Matters and for the Information Department. In addition, $117,400 was provided for the hiring of additional typists and a proof-reader to assist at peak periods (for the revised budget, see below, pp. 115-116). In view of the continued high number of cases on its List, the Court has further requested a substantial increase of its budget for the biennium 2002-2003. This request concerns the Registry's departments other than the Department of Linguistic Matters. It seeks additionally to have the judges provided with the services of law clerks, as is the case with most other international courts.

58. Following the inspection on management and administration in the Registry of the Court made in 1999 by the Joint Inspection Unit, the ensuing report was considered by the General Assembly on 14 June 2001 (cf. G.A. resolution 55/257).

The Registrar and Deputy Registrar

59. The Registrar is the regular channel of communications to and from the Court, and in particular he effects all communications, notifications and transmissions of documents required by the Statute or by the Rules; he keeps a General List of all cases, entered and numbered in the order in which the documents instituting proceedings or requesting an advisory opinion are received in the Registry; he is present, in person or by his deputy, at meetings of the Court, and of the Chambers, and is responsible for the preparation of minutes of such meetings; he makes arrangements for such provision or verification of translations and interpretations into the Court's official languages (French and English) as the Court may require; he signs all judgments, advisory opinions and orders of the Court as well as the minutes; he is responsible for the administration of the Registry and for the work of all its departments and divisions, including the accounts and financial administration in accordance with the financial procedures of the United Nations; he assists in maintaining the Court's external relations, both with international organizations and States and in the fields of information and publications (official publications of the Court, press releases, etc.); finally, he has custody of the seals and stamps of the Court, of the archives of the Court, and of such other archives as may be entrusted to the Court (including the archives of the Nuremberg Tribunal).

60. The Deputy Registrar assists the Registrar and acts as Registrar in the latter's absence; he has since 2000 been entrusted with wider administrative responsibilities, including direct supervision of the Archives, Computerization and General Assistance Divisions.

The Registry's substantive divisions and units

Department of Legal Matters

61. This Department, composed of six Professional and one General Service staff members, is responsible for all legal matters within the Registry. In particular, its task is to assist the Court in the exercise of its judicial functions. It prepares the minutes of meetings of the Court and acts as secretariat to the drafting committees, which prepare the Court's draft decisions, and also as secretariat to the Rules Committee. It carries out research in international law, examining previous decisions of the Court and of its predecessor, the Permanent Court of International Justice, and preparing studies and notes for the Court and the Registrar as required. It also prepares for signature by the Registrar all correspondence in pending cases and, more generally, diplomatic correspondence relating to the application of the Statute or the Rules of Court. It is also responsible for monitoring the headquarters agreements with the host country. Finally, as the

Registry has no personnel department, the Department may be consulted on all legal questions relating to the terms of employment of Registry staff.

Department of Linguistic Matters

62. This Department, currently composed of 15 Professional staff members and one General Service member, is responsible for the translation of documents to and from the Court's two official languages. These documents include case pleadings and other communications from States parties, verbatim records of Court hearings, the Court's Judgments, Advisory Opinions and Orders, together with their drafts and working documents, judges' notes, minutes of Court and Committee meetings, internal reports, notes, studies, memos and directives, speeches by the President and judges to outside bodies, reports and communications to the Secretariat, etc.

63. The Department also provides interpretation at meetings of the President and Court Members with agents of the parties and other official visitors.

64. Consequent upon General Assembly resolution 55/239 of 23 December 2000, which approved the creation of 13 new posts (3 P-4, 9 P-3, 1 administrative G-4) for the current biennium, the Department has undergone an unprecedented but welcome growth. Thanks to an intensive recruiting campaign, culminating in the organization of interviews and written tests for candidates for each of the two Court languages, it was possible to fill ten of the posts within a relatively short time, with active steps now under way to find candidates for the remaining three. As a result, recourse to outside translators has been substantially reduced. However, outside translation assistance is still necessary on occasion, in particular for Court hearings. Outside interpreters are also still regularly required, notably for Court hearings and deliberations.

Information Department

65. This Department, composed of two Professional and one General Service staff members, plays an important part in the Court's external relations. Its duties consist of preparing all documents or sections of documents containing general information on the Court (in particular the Annual Report of the Court to the General Assembly, the sections concerning the Court in various United Nations documents, the Yearbook, and documents for the general public); arranging for the circulation of printed publications and public documents issued by the Court; encouraging and assisting the press, radio and television to report on the work of the Court (in particular by preparing press releases); replying to all requests for information on the Court; keeping Members of the Court abreast of information in the press or on the Internet concerning pending or possible cases; organizing the public sittings of the Court and all other official events, including a large number of visits.

Technical Divisions

Finance Division

66. This Division, composed of two Professional and two General Service staff members, is responsible for financial matters and for various duties relating to staff administration. Its financial duties include inter alia: preparation of the budget; financial accounting and reporting; procurement and inventory control; vendor payments; payroll and payroll related operations (allowances/overtime), and travel. On the personnel side, the Division administers the Staff Regulations; handles personnel actions (contracts/increments/allowances); administers the medical insurance and pension schemes; maintains personnel records (leave/allowances) and deals with the administrative aspects of recruitments/ separations.

Publications Division

67. This Division, composed of three Professional staff members, is responsible for preparation of lay-out, correction of proofs, study of estimates and choice of a printing firm in relation to the following official publications of the Court: (a) Reports of Judgments, Advisory Opinions and Orders; (b) Yearbooks; (c) Memorials, Pleadings and Documents (former "Series C"); (d) Bibliography. It is also responsible for various other publications as instructed by the Court or the Registrar ("Blue Book" (handbook on the Court for the general public), "Background Notes on the Court", "White Book" (composition of the Court and the Registry). Moreover, as the printing of the Court's publications is outsourced, the Division is also responsible for the preparation,

conclusion and implementation of contracts with printers. (For the Court's publications, see Chapter VIII below).

Documents Division — Library of the Court

68. Operating in close collaboration with the Peace Palace Library of the Carnegie Foundation, this Division, composed of two Professional and two General Service staff members, has as its main task the acquisition, conservation and classification of leading works on international law, as well as periodicals and other relevant documents; it also procures on request items not included in the catalogue of the Carnegie Library. It also receives United Nations publications, including the documents of its principal organs, which it has to index, classify and keep up-to-date. It prepares bibliographies for Members of the Court as required and compiles an annual bibliography of all publications concerning the Court. The Division also has to make good the lack of a reference service for translators.

Archives, Indexing and Distribution Division

69. This Division, composed of one Professional and four General Service staff members, is responsible for indexing and classifying all correspondence and documents received or sent by the Court, and for the subsequent retrieval of any such item on request.

70. The duties of this Division include in particular the keeping of an up-to-date index of correspondence, incoming and outgoing, as well as of all documents, both official and other, held on file. It also maintains a card-index, by name and subject, of minutes of the Court's meetings. The automation and computerization of the Division is in progress.

71. The Division also handles the dispatch of official publications to Members of the United Nations, as well as to numerous institutions and private persons. It is also responsible for checking, distributing and filing all internal documents, some of which are strictly confidential.

Shorthand, Typewriting and Reproduction Division

72. This Division, composed of one Professional and five General Service staff members, carries out all the typing work of the Registry and, as necessary, the reproduction of typed texts.

73. Other than actual correspondence, the Division is responsible in particular for the typing and reproduction of the following documents: translations of written pleadings and annexes, Verbatim Records of hearings and their translations, translations of Judges' Notes and Judges' amendments, Judgments, Advisory Opinions and Orders, translations of Judges' Opinions. In addition, it is responsible for checking documents and references, re-reading and page layout.

Judges' Secretaries

74. The work done by the ten Judges' secretaries is manifold and varied. As a general rule, the secretaries type Notes, amendments and Opinions, as well as all correspondence of Judges and Judges ad hoc. They also check the references in Notes and Opinions. They also provide Judges with administrative assistance.

Computerization Division

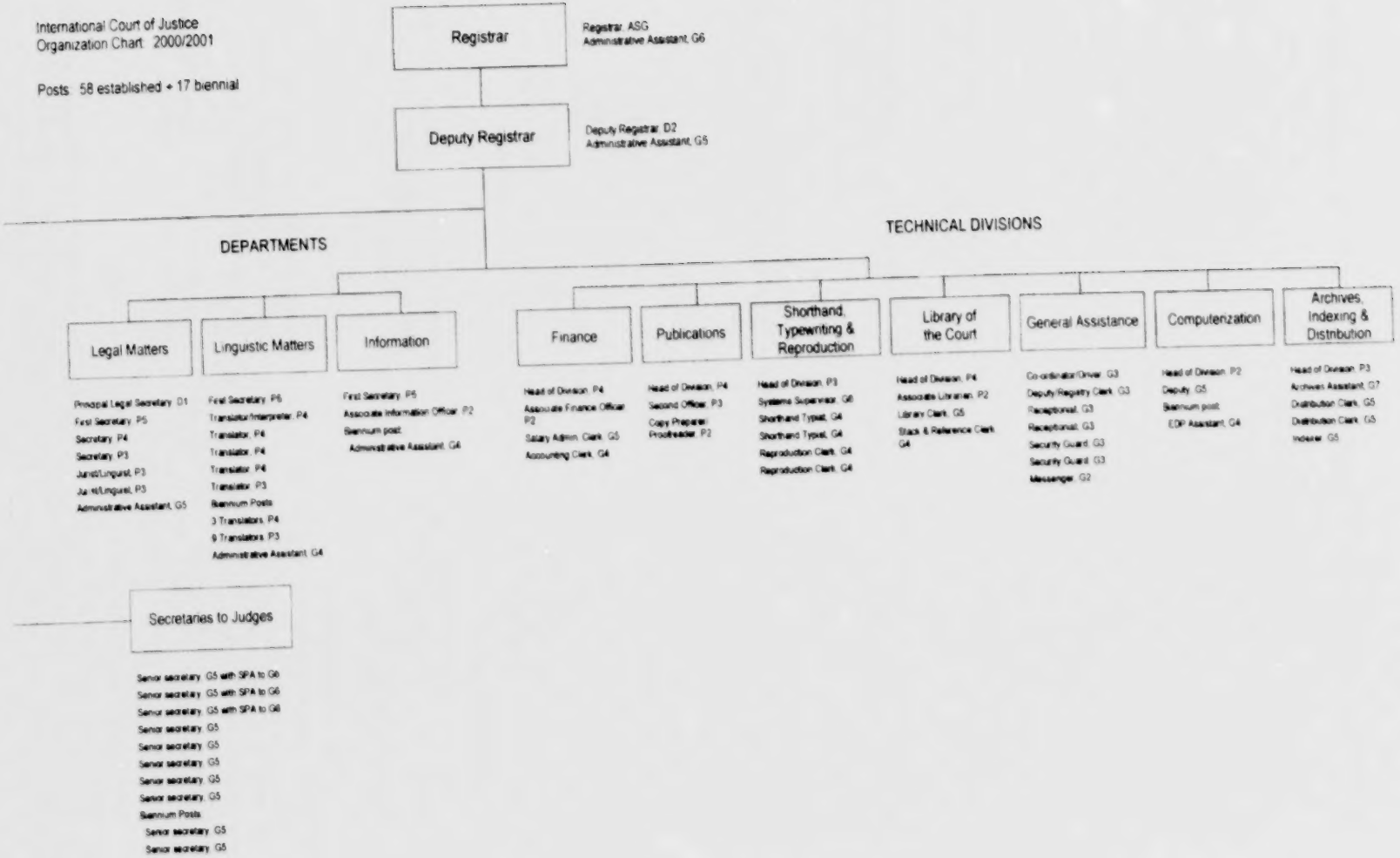
75. The Computerization Division, composed of one Professional and two General Service staff members, is responsible for the efficient functioning and continued development of information technology at the Court. It is charged with the administration and functioning of the Court's local area networks and all other computer and technical equipment. It is also responsible for the implementation of new software and hardware projects, and assists and trains computer users in all aspects of information technology. Finally, the Computerization Division is responsible for the development and management of the ICJ websites.

General Assistance Division

76. The General Assistance Division, composed of seven General Service staff members, provides general assistance to Members of the Court and Registry staff in regard to messenger, transport, reception and telephone services. It is also responsible for security.

International Court of Justice
Organization Chart 2000/2001

Posts: 58 established + 17 biennial



C. Seat

77. The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

78. The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the Permanent Court of International Justice as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing as well as a number of newly constructed offices on the third floor of the Peace Palace were inaugurated in 1997.

79. An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946. It provides for the payment to the Carnegie Foundation of an annual contribution, which for the year 2000 amounts to US$ 820,600.

D. Museum of the Court

80. On 17 May 1999, the Secretary-General of the United Nations, H.E. Mr. Kofi Annan, inaugurated the Museum of the International Court of Justice (and of the other institutions in the Peace Palace) situated in the south wing of the Peace Palace.

81. Its collection presents an overview of the theme "Peace through Justice", highlighting the history of the Hague Peace Conferences of 1899 and 1907; the creation at that time of the Permanent Court of Arbitration; the consequent construction of the Peace Palace as a seat for International Justice; and Permanent Court of International Justice and the present Court (The genesis of the UN; the Court, and its Registry; the attire of the Judges; the Bench at present; the provenance of Judges and cases; the procedure of the Court; the world's legal systems; the case-law of the Court; prominent visitors).

V. JUDICIAL WORK OF THE COURT

82. During the period under review 26 contentious cases were pending, 22 of which remain so.

83. Over this period, the Court was seised of three new cases: (a) Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), (b) Application for Revision of the Judgment of 11 July 1996 in the case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina) and (c) Certain Property (Liechtenstein v. Germany).

84. In each of the two cases concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) and (Democratic Republic of the Congo v. Rwanda), the Applicant State indicated that it wished to discontinue the case.

85. A request for the indication of provisional measures was made by the Applicant State in the case concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium).

86. An Application for permission to intervene was filed by the Philippines in the case concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia).

87. The Court held public hearings in the LaGrand case, on the request for permission to intervene in the case concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia) and on the request for the indication of provisional measures in the case concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium). It further held a great number of private meetings. It rendered Judgments in the cases concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain) and LaGrand (Germany v. United States of America). It made an Order on the request for the indication of provisional measures in the case concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium). It also made two Orders by which, it removed the cases concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) and (Democratic Republic of the Congo v. Rwanda) from the List.

88. The Court further made an Order authorising an additional pleading by Cameroon relating solely to the counter-claims submitted by Nigeria in the case concerning Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening). It finally made Orders fixing or extending time-limits in the cases concerning Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) and (Yugoslavia v. United Kingdom), Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium) and Certain Property (Liechtenstein v. Germany).

89. The President of the Court made Orders fixing or extending time-limits in the cases concerning Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and (Libyan Arab Jamahiriya v. United States of America), Oil Platforms (Islamic Republic of Iran v. United States of America), Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia), Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo), Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Burundi) and (Democratic Republic of the Congo v. Rwanda) and Arrest Warrant (of 11 April 2000 (Democratic Republic of the Congo v. Belgium).

90. The Vice-President, Acting President, made Orders fixing time-limits in the cases concerning Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) and (Yugoslavia v. United Kingdom).

91. The Court further adopted amendments to Arts. 79 and 80 of its Rules (see below, pp. 102-104)

A. Cases before the Court

1. Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain)

92. On 8 July 1991, the Government of the State of Qatar filed in the Registry of the Court an Application instituting proceedings against the Government of the State of Bahrain

> "in respect of certain existing disputes between them relating to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States"

93. In the Application, Qatar founded the jurisdiction of the Court upon certain agreements between the Parties stated to have been concluded in December 1987 and December 1990, the subject and scope of the commitment to jurisdiction being determined, according to Qatar, by a formula proposed by Bahrain to Qatar on 26 October 1988 and accepted by Qatar in December 1990.

94. By letters addressed to the Registrar of the Court on 14 July 1991 and 18 August 1991, Bahrain contested the basis of jurisdiction invoked by Qatar.

95. At a meeting held on 2 October 1991 to enable the President of the Court to ascertain their views, the Parties reached agreement as to the desirability of the proceedings being initially devoted to the questions of the Court's jurisdiction to entertain the dispute and the admissibility of the Application. The President accordingly made, on 11 October 1991, an Order (I.C.J. Reports 1991, p. 50) deciding that the written proceedings should first be addressed to those questions; in the same Order he fixed the following time-limits in accordance with a further agreement reached between the Parties at the meeting of 2 October: 10 February 1992 for the Memorial of Qatar, and 11 June 1992 for the Counter-Memorial of Bahrain. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

96. By an Order of 26 June 1992 (I.C.J. Reports 1992, p. 237), the Court, having ascertained the views of the Parties, directed that a Reply by the Applicant and a Rejoinder by the Respondent be filed on the questions of jurisdiction and admissibility. It fixed 28 September 1992 as the time-limit for the Reply of Qatar and 29 December 1992 for the Rejoinder of Bahrain. Both the Reply and the Rejoinder were filed within the prescribed time-limits.

97. Qatar chose Mr. José María Ruda and Bahrain Mr. Nicolas Valticos to sit as judges ad hoc. Following Mr. Ruda's death, Qatar chose Mr. Santiago Torres Bernárdez to sit as judge ad hoc.

98. Oral proceedings were held from 28 February to 11 March 1994. In the course of eight public sittings, the Court heard statements on behalf of Qatar and Bahrain.

99. At a public sitting held on 1 July 1994, the Court delivered a Judgment (I.C.J. Reports 1994, p. 112) by which it found that the exchanges of letters between the King of Saudi Arabia and the Amir of Qatar dated 19 and 21 December 1987, and between the King of Saudi Arabia and the Amir of Bahrain dated 19 and 26 December 1987, and the document headed "Minutes" and signed at Doha on 25 December 1990 by the Ministers for Foreign Affairs of Bahrain, Qatar and Saudi Arabia, were international agreements creating rights and obligations for the Parties; and that, by the terms of those agreements, the Parties had undertaken to submit to the Court the whole of the dispute between them, as circumscribed by the Bahraini formula. Having noted that it had before it only an Application from Qatar setting out that State's specific claims in connection with that formula, the Court decided to afford the Parties the opportunity to submit to it the whole of the dispute. It fixed 30 November 1994 as the time-limit within which the Parties were jointly or separately to take action to that end and reserved any other matters for subsequent decision.

100. Judge Shahabuddeen appended a declaration to the Judgment; Vice-President Schwebel and Judge ad hoc Valticos appended separate opinions; and Judge Oda appended his dissenting opinion.

101. On 30 November 1994, the date fixed in the Judgment of 1 July, the Court received from the Agent of Qatar a letter transmitting an "Act to comply with paragraphs (3) and (4) of the operative paragraph 41 of the Judgment of the Court dated 1 July 1994". On the same day, the Court received a communication from the Agent of Bahrain, transmitting the text of a document entitled

"Report of the State of Bahrain to the International Court of Justice on the Attempt by the Parties to Implement the Court's Judgment of 1st July, 1994". In view of those communications, the Court resumed dealing with the case.

102. At a public sitting held on 15 February 1995, the Court delivered a Judgment on jurisdiction and admissibility (I.C.J. Reports 1995, p. 6) by which it found that it had jurisdiction to adjudicate upon the dispute submitted to it between the State of Qatar and the State of Bahrain and that the Application of the State of Qatar as formulated on 30 November 1994 was admissible.

103. Vice-President Schwebel, Judges Oda, Shahabuddeen and Koroma, and Judge ad hoc Valticos appended dissenting opinions to the Judgment.

104. Judge ad hoc Valticos resigned as of the end of the jurisdiction and admissibility phase of the proceedings.

105. By an Order of 28 April 1995, (I.C.J. Reports 1995, p. 83), the Court, having ascertained the views of Qatar and having given Bahrain an opportunity of stating its views, fixed 29 February 1996 as the time-limit for the filing by each of the Parties of a Memorial on the merits. On the request of Bahrain, and after the views of Qatar had been ascertained, the Court, by an Order of 1 February 1996 (I.C.J. Reports 1996, p. 6), extended that time-limit to 30 September 1996. The two Memorials were filed within the thus extended time-limit.

106. By an Order of 30 October 1996 (I.C.J. Reports 1996, p. 800), the President of the Court, taking into account the views of the Parties, fixed 31 December 1997 as the time-limit for the filing by each of the Parties of a Counter-Memorial on the merits.

107. As Judge ad hoc Valticos had resigned, Bahrain chose Mr. Mohamed Shahabuddeen to sit as judge ad hoc. After Judge ad hoc Shahabuddeen had, in his turn, resigned, Bahrain chose Mr. Yves L. Fortier to sit as judge ad hoc.

108. By a letter dated 25 September 1997, Bahrain informed the Court that it challenged the authenticity of 81 documents produced by Qatar as annexes to its Memorial. Accordingly, Bahrain announced that it would disregard the content of these documents for the purposes of preparing its Counter-Memorial.

109. By a letter dated 8 October 1997, Qatar stated that the objections raised by Bahrain had come too late to answer them in its Counter-Memorial. Bahrain then stated that the use by Qatar of the challenged documents gave rise to procedural difficulties that could affect the orderly development of the case. It observed that the question of the authenticity of the said documents was "logically preliminary to . . .the determination of their substantive effect". After the filing of the Counter-Memorials on 23 December 1997, Bahrain also challenged the authenticity of a further document annexed to Qatar's Counter-Memorial. Furthermore, it emphasized again the need for the Court to decide the question of the documents' authenticity as a preliminary issue.

110. In view of this the Court, by an Order of 30 March 1998, directed that each of the Parties submit a Reply on the merits by 30 March 1999. It also decided that Qatar should file by 30 September 1998 an interim report, to be as comprehensive and specific as possible, on the question of the authenticity of each of the disputed documents. The Court specified that Qatar's Reply should contain its detailed and definitive position on the question and that Bahrain's Reply should contain its observations on Qatar's interim report.

111. In the interim report that it submitted on 30 September 1998, Qatar announced that for the purposes of the case, it would not rely on the disputed documents. In that report, to which four experts' reports were appended, Qatar stated on the one hand that, on the question of the material authenticity of the documents, there were differing views not only between the respective experts of the Parties, but also between its own experts, and on the other that, as far as the historical consistency of the content of those documents was concerned, the experts that it had consulted considered that Bahrain's assertions contained exaggerations and distortions of the facts. Qatar stated that it had taken its decision "so as to enable the Court to address the merits of the case without further procedural complications".

112. By an Order dated 17 February 1999, the Court placed on record the decision of Qatar to disregard the 82 documents annexed to its written pleadings which had been challenged by Bahrain

and it accordingly decided that the Replies yet to be filed by Qatar and by Bahrain would not rely on these documents. The Court granted a two-month extension of the time-limit for the submission of these Replies (which was accordingly set for 30 May 1999) following a request by Qatar, to which Bahrain had no objection.

113. After filing their Replies within the extended time-limit, Qatar and Bahrain have submitted, with the approval of the Court, certain additional expert reports and historical documents.

114. Public sittings to hear the oral arguments of the Parties were held from 29 May to 29 June 2000.

115. At the conclusion of those hearings Qatar requested the Court, rejecting all contrary claims and submissions,

> "I. To adjudge and declare in accordance with international law:
>
> A. (1) that the State of Qatar has sovereignty over the Hawar Islands;
>
> (2) that Dibal and Qit'at Jaradah shoals are low-tide elevations which are under Qatar's sovereignty;
>
> B. (1) that the State of Bahrain has no sovereignty over the island of Janan;
>
> (2) that the State of Bahrain has no sovereignty over Zubarah;
>
> (3) that any claim by Bahrain concerning archipelagic baselines and areas for fishing for pearls and swimming fish would be irrelevant for the purpose of maritime delimitation in the present case;
>
> II. To draw a single maritime boundary between the maritime areas of seabed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain on the basis that Zubarah, the Hawar Islands and the island of Janan appertain to the State of Qatar and not to the State of Bahrain, that boundary starting from point 2 of the delimitation agreement concluded between Bahrain and Iran in 1971 (51°05'54"E and 27°02'47"N), thence proceeding in a southerly direction up to BLV (50°57'30"E and 26°33'35"N), then following the line of the British decision of 23 December 1947 and up to NSLB (50°49'48"E and 26°21'24"N) and up to point L (50°43'00"E and 25°47'27"N), thence proceeding to point S1 of the delimitation agreement concluded by Bahrain and Saudi Arabia in 1958 (50°31'45"E and 25°35'38"N)."

116. The final submissions of Bahrain read as follows:

> "May it please the Court, rejecting all contrary claims and submissions, to adjudge and declare that:
>
> 1. Bahrain is sovereign over Zubarah.
> 2. Bahrain is sovereign over the Hawar Islands, including Janan and Hadd Janan.
> 3. In view of Bahrain's sovereignty over all the insular and other features, including Fasht and Dibal and Qit'at Jaradah, comprising the Bahraini archipelago, the maritime boundary between Bahrain and Qatar is as described in Part Two of Bahrain's Memorial."

117. At a public sitting of 16 March 2001, the Court delivered its Judgment, the operative paragraph of which reads as follows:

> "For these reasons,
>
> The Court,
>
> (1) Unanimously,
>
> Finds that the State of Qatar has sovereignty over Zubarah;
>
> (2) (a) By twelve votes to five,

Finds that the State of Bahrain has sovereignty over the Hawar Islands;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal; Judge ad hoc Fortier;

AGAINST: Judges Bedjaoui, Ranjeva, Koroma, Vereshchetin; Judge ad hoc Torres Bernárdez

(b) Unanimously,

Recalls that vessels of the State of Qatar enjoy in the territorial sea of Bahrain separating the Hawar Islands from the other Bahraini islands the right of innocent passage accorded by customary international law;

(3) By thirteen votes to four,

Finds that the State of Qatar has sovereignty over Janan Island, including Hadd Janan;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Rezek, Al-Khasawneh, Buergenthal; Judge ad hoc Torres Bernárdez;

AGAINST: Judges Oda, Higgins, Kooijmans; Judge ad hoc Fortier.

(4) By twelve votes to five,

Finds that the State of Bahrain has sovereignty over the island of Qit'at Jaradah;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Herczegh, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal; Judge ad hoc Fortier;

AGAINST: Judges Bedjaoui, Ranjeva, Koroma, Vereshchetin; Judge ad hoc Torres Bernárdez.

(5) Unanimously,

Finds that the low-tide elevation of Fasht ad Dibal falls under the sovereignty of the State of Qatar;

(6) By thirteen votes to four,

Decides that the single maritime boundary that divides the various maritime zones of the State of Qatar and the State of Bahrain shall be drawn as indicated in paragraph 250 of the present Judgment.

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Herczegh, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal; Judge ad hoc Fortier;

AGAINST: Judges Bedjaoui, Ranjeva, Koroma; Judge ad hoc Torres Bernárdez.

118. Judge Oda appended a separate opinion to the Judgment; Judges Bedjaoui, Ranjeva and Koroma a joint dissenting opinion; Judges Herczegh, Vereshchetin and Higgins declarations; Judges Parra-Aranguren, Kooijmans and Al-Khasawneh separate opinions; Judge ad hoc Torres Bernárdez a dissenting opinion, and Judge ad hoc Fortier a separate opinion.

2, 3. Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom) and (Libyan Arab Jamahiriya v. United States of America)

119. On 3 March 1992 the Government of the Socialist People's Libyan Arab Jamahiriya filed in the Registry of the Court two separate Applications instituting proceedings against the Government of the United Kingdom of Great Britain and Northern Ireland and against the United States of America in respect of a dispute over the interpretation and application of the Montreal Convention of 23 September 1971, a dispute arising from acts resulting in the aerial incident that occurred over Lockerbie, Scotland, on 21 December 1988.

120. In the Applications, Libya referred to the charging and indictment of two Libyan nationals by the Lord Advocate of Scotland and by a Grand Jury of the United States respectively, for having caused a bomb to be placed aboard the Pan-American flight 103. The bomb subsequently exploded, causing the aeroplane to crash, as a consequence of which 270 persons were killed.

121. Libya contended that the acts alleged constituted an offence within the meaning of Article 1 of the Montreal Convention, which it claimed to be the only appropriate convention in force between the Parties, and claimed that it had fully complied with its own obligations under that instrument, Article 5 of which required a State to establish its own jurisdiction over alleged offenders present in its territory in the event of their non-extradition; there was no extradition treaty between Libya and the respective other Parties, and Libya was obliged under Article 7 of the Convention to submit the case to its competent authorities for the purpose of prosecution.

122. Libya contended that the United Kingdom and the United States were in breach of the Montreal Convention through rejection of its efforts to resolve the matter within the framework of international law, including the Convention itself, in that they were placing pressure upon Libya to surrender the two Libyan nationals for trial.

123. According to the Applications, it had not been possible to settle by negotiation the disputes that had thus arisen, neither had the Parties been able to agree upon the organization of arbitration to hear the matter. The Libyan Arab Jamahiriya therefore submitted the disputes to the Court on the basis of Article 14, paragraph 1, of the Montreal Convention.

124. Libya requested the Court to adjudge and declare as follows:

(a) that Libya has fully complied with all of its obligations under the Montreal Convention;

(b) that the United Kingdom and the United States respectively have breached, and are continuing to breach, their legal obligations to Libya under Articles 5 (2), 5 (3), 7, 8 (2) and 11 of the Montreal Convention; and

(c) that the United Kingdom and the United States respectively are under a legal obligation immediately to cease and desist from such breaches and from the use of any and all force or threats against Libya, including the threat of force against Libya, and from all violations of the sovereignty, territorial integrity, and the political independence of Libya.

125. Later the same day, Libya made two separate requests to the Court to indicate forthwith the following provisional measures:

(a) to enjoin the United Kingdom and the United States respectively from taking any action against Libya calculated to coerce or compel Libya to surrender the accused individuals to any jurisdiction outside of Libya; and

(b) to ensure that no steps are taken that would prejudice in any way the rights of Libya with respect to the legal proceedings that are the subject of Libya's Applications.

126. In those requests Libya also requested the President, pending the meeting of the Court, to exercise the power conferred on him by Article 74, paragraph 4, of the Rules of Court, to call upon the Parties to act in such a way as to enable any Order the Court might make on Libya's request for provisional measures to have its appropriate effects.

127. By a letter of 6 March 1992, the Legal Adviser of the United States Department of State, referring to the specific request made by Libya under Article 74, paragraph 4, of the Rules of Court, in its request for the indication of provisional measures, stated inter alia that

> "taking into account both the absence of any concrete showing of urgency relating to the request and developments in the ongoing action by the Security Council and the Secretary-General in this matter ... the action requested by Libya ... is unnecessary and could be misconstrued".

128. Libya chose Mr. Ahmed S. El-Kosheri to sit as judge ad hoc in both cases.

129. At the opening of the hearings on the request for the indication of provisional measures on 26 March 1992, the Vice-President of the Court, exercising the functions of the presidency in the case, referred to the request made by Libya under Article 74, paragraph 4, of the Rules of Court and stated that, after the most careful consideration of all the circumstances then known to him, he had come to the conclusion that it would not be appropriate for him to exercise the discretionary power conferred on the President by that provision. At five public sittings held on 26, 27 and 28 March 1992, both Parties in each of the two cases presented oral arguments on the request for the indication of provisional measures.

130. At a public sitting held on 14 April 1992, the Court read the two Orders on the requests for indication of provisional measures filed by Libya (I.C.J. Reports 1992, pp. 3 and 114), in which it found that the circumstances of the case were not such as to require the exercise of its power to indicate such measures.

131. Acting President Oda and Judge Ni each appended a declaration to the Orders of the Court; Judges Evensen, Tarassov, Guillaume and Aguilar Mawdsley appended a joint declaration. Judges Lachs and Shahabuddeen appended separate opinions; and Judges Bedjaoui, Weeramantry, Ranjeva, Ajibola and Judge ad hoc El-Kosheri appended dissenting opinions to the Orders.

132. By Orders of 19 June 1992 (I.C.J. Reports 1992, pp. 231 and 234), the Court, taking into account that the length of time-limits had been agreed by the Parties at a meeting held on 5 June 1992 with the Vice-President of the Court, exercising the function of the presidency in the two cases, fixed 20 December 1993 as the time-limit for the filing of the Memorials of Libya and 20 June 1995 for the filing of the Counter-Memorials of the United Kingdom and the United States of America. The Memorials were filed within the prescribed time-limit.

133. On 16 and on 20 June 1995 respectively the United Kingdom and the United States of America filed preliminary objections to the jurisdiction of the Court to entertain the Applications of the Libyan Arab Jamahiriya.

134. By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provision of that Article.

135. After a meeting had been held, on 9 September 1995, between the President of the Court and the Agents of the Parties to ascertain the latters' views, the Court, by Orders of 22 September 1995 (I.C.J. Reports 1995, p. 282 and 285), fixed, in each case, 22 December 1995 as the time-limit within which the Libyan Arab Jamahiriya might present a written statement of its observations and submissions on the preliminary objections raised by the United Kingdom and the United States of America respectively. Libya filed such statements within the prescribed time-limits.

136. The Secretary-General of the International Civil Aviation Organization, which had, in accordance with Article 34, paragraph 3, of the Statute, been informed that the interpretation of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aircraft, concluded in Montreal on 23 September 1971, was in issue in the two cases, and been communicated copies of the written proceedings, informed the Court that the Organization had "no observation to make for the time being", requesting, however, to be kept informed of the developments of the two cases, in order to determine whether it would be appropriate to submit observations at a later stage.

137. Judge Higgins having recused herself, the United Kingdom chose Sir Robert Jennings to sit as judge ad hoc.

138. Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by the United Kingdom and the United States of America were held from 13 to 22 October 1997.

139. At public sittings held on 27 February 1998, the Court delivered the two Judgments on the preliminary objections (I.C.J. Reports 1998, pp. 9 and 115 respectively), by which it rejected the objection to jurisdiction raised by the United Kingdom and the United States of America respectively on the basis of the alleged absence of a dispute between the Parties concerning the interpretation or application of the Montreal Convention of 23 September 1971; found that it had jurisdiction, on the basis of Article 14, paragraph 1 of that Convention, to hear the disputes between Libya and the United Kingdom and Libya and the United States of America respectively as to the interpretation or application of the provisions of that Convention; rejected the objection to admissibility derived by the United Kingdom and the United States of America respectively from Security Council resolutions 748 (1992) and 883 (1993); found that the Applications filed by Libya on 3 March 1992 were admissible; and declared that the objection raised by each of the Respondent States according to which Security Council resolutions 748 (1992) and 883 (1993) had rendered the claims of Libya without object did not, in the circumstances of the case, have an exclusively preliminary character.

140. Joint declarations were appended to the Judgment in the case of Libya v. the United Kingdom by Judges Bedjaoui, Guillaume and Ranjeva; by Judges Bedjaoui, Ranjeva and Koroma; and by Judges Guillaume and Fleischhauer; Judge Herczegh also appended a declaration to the Judgment of the Court. Judges Kooijmans and Rezek appended separate opinions to the Judgment. President Schwebel, Judge Oda and Judge ad hoc Sir Robert Jennings appended dissenting opinions.

141. In the case of Libya v. the United States of America joint declarations were appended to the Judgment by Judges Bedjaoui, Ranjeva and Koroma; and by Judges Guillaume and Fleischhauer; Judge Herczegh also appended a declaration to the Judgment of the Court. Judges Kooijmans and Rezek appended separate opinions to the Judgment. President Schwebel and Judge Oda appended dissenting opinions.

142. By Orders of 30 March 1998 (I.C.J. Reports 1998, pp. 237 and 240 respectively), the Court fixed 30 December 1998 as the time-limit for the filing of the Counter-Memorials of the United Kingdom and the United States of America respectively. Upon a proposal of the United Kingdom and of the United States respectively, who referred to diplomatic initiatives undertaken shortly before, and after the views of Libya had been ascertained, the Senior Judge, Acting President, of the Court extended by Orders of 17 December 1998 that time-limit by three months to 31 March 1999. The Counter-Memorials were filed within the time-limit thus extended.

143. By Orders of 29 June 1999, the Court, taking account of the agreement of the Parties and the special circumstances of the case, authorized the submission of a Reply by Libya and a Rejoinder by the United Kingdom and the United States of America respectively, fixing 29 June 2000 as the time-limit for the filing of Libya's Reply. The Court fixed no date for the filing of the Rejoinders; the representatives of the Respondent States had expressed the desire that no such date be fixed at this stage of the proceedings, "in view of the new circumstances consequent upon the transfer of the two accused to the Netherlands for trial by a Scottish court". Libya's Reply was filed within the prescribed time-limit.

144. By Orders of 6 September 2000, the President of the Court, taking account of the views of the Parties, fixed 3 August 2001 as the time-limit for the filing of the Rejoinder of the United Kingdom and the United States respectively.

4. Oil Platforms (Islamic Republic of Iran v. United States of America)

145. On 2 November 1992 the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America in respect of a dispute concerning the destruction of three Iranian oil platforms.

146. The Islamic Republic founded the jurisdiction of the Court for the purposes of these proceedings on Article XXI (2) of the Iran/United States Treaty of Amity, Economic Relations and Consular Rights, signed at Tehran on 15 August 1955.

147. In its Application Iran alleged that the destruction caused by several warships of the United States Navy, on 19 October 1987 and 18 April 1988, to three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company,

constituted a fundamental breach of various provisions of the Treaty of Amity and of international law. In this connection Iran referred in particular to Articles I and X (1) of the Treaty which provide respectively: "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran", and "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation."

148. The Islamic Republic accordingly requested the Court to adjudge and declare as follows:

"(a) That the Court has jurisdiction under the Treaty of Amity to entertain the dispute and to rule upon the claims submitted by the Islamic Republic;

(b) That in attacking and destroying the oil platforms referred to in the Application on 19 October 1987 and 18 April 1988, the United States breached its obligations to the Islamic Republic, inter alia, under Articles I and X(1) of the Treaty of Amity and international law;

(c) That in adopting a patently hostile and threatening attitude towards the Islamic Republic that culminated in the attack and destruction of the Iranian oil platforms, the United States breached the object and purpose of the Treaty of Amity, including Articles I and X(1), and international law;

(d) That the United States is under an obligation to make reparations to the Islamic Republic for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings. The Islamic Republic reserves the right to introduce and present to the Court in due course a precise evaluation of the reparations owed by the United States; and

(e) Any other remedy the Court may deem appropriate."

149. By an Order of 4 December 1992 (I.C.J. Reports 1992, p. 763), the President of the Court, taking into account an agreement of the Parties, fixed 31 May 1993 as the time-limit for the filing of the Memorial of Iran and 30 November 1993 for the filing of the Counter-Memorial of the United States.

150. By an Order of 3 June 1993 (I.C.J. Reports 1993, p. 35) the President of the Court, upon the request of Iran and after the United States had indicated that it had no objection, extended those time-limits to 8 June and 16 December 1993, respectively. The Memorial was filed within the prescribed time-limit.

151. The Islamic Republic of Iran chose Mr. François Rigaux to sit as judge ad hoc.

152. On 16 December 1993, within the extended time-limit for the filing of the Counter-Memorial, the United States of America filed a preliminary objection to the Court's jurisdiction. In accordance with the terms of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended; by an Order of 18 January 1994 (I.C.J. Reports 1994, p. 3), the Court fixed 1 July 1994 as the time-limit within which Iran could present a written statement of its observations and submissions on the objection. That written statement was filed within the prescribed time-limit.

153. Public sittings to hear the oral arguments of the Parties on the preliminary objection filed by the United States of America were held between 16 and 24 September 1996.

154. At a public sitting held on 12 December 1996, the Court delivered its Judgment on the preliminary objection raised by the United States (I.C.J. Reports 1996, p. 803), rejecting that objection and finding that it had jurisdiction, on the basis of Article XXI, paragraph 2, of the Treaty of 1955, to entertain the claims made by Iran under Article X, paragraph 1, of that Treaty.

155. Judges Shahabuddeen, Ranjeva, Higgins and Parra-Aranguren and Judge ad hoc Rigaux appended separate opinions to the Judgment of the Court; Vice-President Schwebel and Judge Oda appended dissenting opinions.

156. By an Order of 16 December 1996 (I.C.J. Reports 1996, p. 902), the President of the Court, taking into account agreement of the Parties, fixed 23 June 1997 as the time-limit for the filing of the Counter-Memorial of the United States of America. Within the time-limit thus fixed the United

States filed the Counter-Memorial and a Counter-Claim, requesting the Court to adjudge and declare:

> "1. That in attacking vessels, laying mines in the Gulf and otherwise engaging in military actions in 1987-88 that were dangerous and detrimental to maritime commerce, the Islamic Republic of Iran breached its obligations to the United States under Article X of the 1955 Treaty, and
>
> 2. That the Islamic Republic of Iran is accordingly under an obligation to make full reparation to the United States for violating the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

157. By a letter of 2 October 1997 Iran informed the Court that it had "serious objections to the admissibility of the United States counter-claim", taking the position that the counter-claim as formulated by the United States did not meet the requirements of Article 80, paragraph 1, of the Rules of Court.

158. At a meeting which the Vice-President of the Court, Acting President, held on 17 October 1997 with the Agents of the Parties it was agreed that their respective Governments would submit written observations on the question of the admissibility of the United States counter-claim.

159. After Iran and the United States, in communications dated 18 November and 18 December 1997 respectively, had submitted these written observations the Court, by an Order of 10 March 1998 (I.C.J. Reports 1998, p. 190), found that the counter-claim presented by the United States in its Counter-Memorial was admissible as such and formed part of the proceedings. It further directed Iran to submit a Reply and the United States to submit a Rejoinder relating to the claims of both Parties, and fixed the time-limits for those pleadings at 10 September 1998 and 23 November 1999 respectively. The Court considered moreover that it was necessary, in order to secure strict equality between the Parties, to reserve the right of Iran to present its views in writing a second time on the United States counter-claim, in an additional pleading, the filing of which might be the subject of a subsequent order.

160. Judges Oda and Higgins appended separate opinions to the Order; Judge ad hoc Rigaux appended a dissenting opinion.

161. By an Order of 26 May 1998 (I.C.J. Reports 1998, p. 269), the Vice-President of the Court, Acting President, extended, at the request of Iran and taking into account the views expressed by the United States, the time-limits for Iran's Reply and the United States' Rejoinder to 10 December 1998 and 23 May 2000 respectively. By an Order of 8 December 1998 the Court further extended those time-limits to 10 March 1999 for Iran's Reply and 23 November 2000 for the United States' Rejoinder. Iran's Reply was filed within the time-limit thus extended. By an Order of 4 September 2000, the President of the Court extended, at the request of the United States and taking into account the agreement between the parties, the time-limit for the filing of the United States' Rejoinder from 23 November 2000 to 23 March 2001. The Rejoinder was filed within the time-limit thus extended.

5. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)

162. On 20 March 1993, the Republic of Bosnia and Herzegovina filed in the Registry of the International Court of Justice an Application instituting proceedings against the Federal Republic of Yugoslavia "for violating the Genocide Convention".

163. The Application referred to several provisions of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, as well as of the Charter of the United Nations, which Bosnia and Herzegovina alleged were violated by Yugoslavia. It also referred in this respect to the four Geneva Conventions of 1949 and their Additional Protocol I of 1977, to the Hague Regulations on Land Warfare of 1907, and to the Universal Declaration of Human Rights.

164. The Application referred to Article IX of the Genocide Convention as the basis for the jurisdiction of the Court.

165. In the Application, Bosnia and Herzegovina requested the Court to adjudge and declare:

"(a) that Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations toward the People and State of Bosnia and Herzegovina under Articles I, II (a), II (b), II (c), II (d), III (a), III (b), III (c), III (d), III (e), IV and V of the Genocide Convention;

(b) that Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949, their Additional Protocol I of 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;

(c) that Yugoslavia (Serbia and Montenegro) has violated and continues to violate Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina;

(d) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so;

(e) that in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is continuing to violate, its solemn obligations under Articles 1 (3), 55 and 56 of the United Nations Charter;

(f) that Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Articles 2 (1), 2 (2), 2 (3), 2 (4), and 33 (1), of the United Nations Charter;

(g) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

(h) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:

— armed attacks against Bosnia and Herzegovina by air and land;

— aerial trespass into Bosnian airspace;

— efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;

(i) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;

(j) that Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4) of the United Nations Charter, as well as its obligations under general and customary international law;

(k) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend Itself and its People under United Nations Charter Article 51 and customary international law, including by means of immediately obtaining military weapons, equipment, supplies and troops from other States;

(l) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under United Nations Charter Article 51 and customary international law to request the immediate assistance of any State to come to its defence, including by military means (weapons, equipment supplies, troops, etc.);

(m) that Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(n) that all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(o) that Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the United Nations Charter and in accordance with the customary doctrine of ultra vires;

(p) that pursuant to the right of collective self-defence recognized by United Nations Charter Article 51, all other States Parties to the Charter have the right to come to the immediate defence of Bosnia and Herzegovina - at its request - including by means of immediately providing It with weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.);

(q) that Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately:

— from its systematic practice of so-called 'ethnic cleansing' of the citizens and sovereign territory of Bosnia and Herzegovina;

— from the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;

— from the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;

— from the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;

— from continuing the siege of any civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;

— from the starvation of the civilian population in Bosnia and Herzegovina;

— from the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;

— from all use of force — whether direct or indirect, overt or covert — against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;

— from all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;

— from all support of any kind — including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of

support — to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina;

(r) that Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as parens patriae for its citizens, reparations for damages to persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro)."

166. On the same day, the Government of Bosnia and Herzegovina, stating that:

"The overriding objective of this Request is to prevent further loss of human life in Bosnia and Herzegovina", and that:

"The very lives, well-being, health, safety, physical, mental and bodily integrity, homes, property and personal possessions of hundreds of thousands of people in Bosnia and Herzegovina are right now at stake, hanging in the balance, awaiting the order of this Court",

filed a request for the indication of provisional measures under Article 41 of the Statute of the Court.

167. The provisional measures requested were as follows:

"1. That Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, must immediately cease and desist from all acts of genocide and genocidal acts against the People and State of Bosnia and Herzegovina, including but not limited to murder; summary executions; torture; rape; mayhem; so-called 'ethnic cleansing'; the wanton devastation of villages, towns, districts and cities; the siege of villages, towns, districts and cities; the starvation of the civilian population; the interruption of, interference with, or harassment of humanitarian relief supplies to the civilian population by the international community; the bombardment of civilian population centres; and the detention of civilians in concentration camps or otherwise.

2. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support — including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support — to any nation, group, organization, movement, militia or individual engaged in or planning to engage in military or paramilitary activities in or against the People, State and Government of Bosnia and Herzegovina.

3. That Yugoslavia (Serbia and Montenegro) itself must immediately cease and desist from any and all types of military or paramilitary activities by its own officials, agents, surrogates, or forces in or against the People, State and Government of Bosnia and Herzegovina, and from any other use or threat of force in its relations with Bosnia and Herzegovina.

4. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to seek and receive support from other States in order to defend Itself and its People, including by means of immediately obtaining military weapons, equipment, and supplies.

5. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to request the immediate assistance of any State to come to its defence, including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.).

6. That under the current circumstances, any State has the right to come to the immediate defence of Bosnia and Herzegovina - at its request - including by means of

immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, and airpeople, etc.)."

168. Hearings on the request for the indication of provisional measures were held on 1 and 2 April 1993. At two public sittings the Court heard the oral observations of each of the Parties.

169. At a public sitting held on 8 April 1993, the President of the Court read out the Order on the request for provisional measures made by Bosnia and Herzegovina (I.C.J. Reports 1993, p. 3) by which the Court indicated, pending its final decision in the proceedings instituted on 20 March 1993 by the Republic of Bosnia and Herzegovina against the Federal Republic of Yugoslavia, the following provisional measures:

(a) The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide; and the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnical, racial or religious group.

(b) The Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Government of the Republic of Bosnia and Herzegovina should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute over the prevention or punishment of the crime of genocide, or render it more difficult of solution.

170. Judge Tarassov appended a declaration to the Order.

171. By an Order of 16 April 1993 (I.C.J. Reports 1993, p. 29) the President of the Court, taking into account an agreement of the Parties, fixed 15 October 1993 as the time-limit for the filing of the Memorial of Bosnia and Herzegovina and 15 April 1994 for the filing of the Counter-Memorial of Yugoslavia.

172. Bosnia and Herzegovina chose Mr. Elihu Lauterpacht and Yugoslavia Mr. Milenko Kreća to sit as judges ad hoc.

173. On 27 July 1993 the Republic of Bosnia and Herzegovina filed a second request for the indication of provisional measures, stating that:

> "This extraordinary step is being taken because the Respondent has violated each and everyone of the three measures of protection on behalf of Bosnia and Herzegovina that were indicated by this Court on 8 April 1993, to the grave detriment of both the People and State of Bosnia and Herzegovina. In addition to continuing its campaign of genocide against the Bosnian People — whether Muslim, Christian, Jew, Croat or Serb — the Respondent is now planning, preparing, conspiring to, proposing, and negotiating the partition, dismemberment, annexation and incorporation of the sovereign state of Bosnia and Herzegovina — a Member of the United Nations Organization — by means of genocide."

174. The provisional measures then requested were as follows:

> "1. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support — including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support — to any nation, group, organization, movement, military, militia or paramilitary force, irregular armed unit, or individual in Bosnia and Herzegovina for any reason or purpose whatsoever.
>
> 2. That Yugoslavia (Serbia and Montenegro) and all of its public officials — including and especially the President of Serbia, Mr. Slobodan Milosevic — must immediately cease and desist from any and all efforts, plans, plots, schemes, proposals

or negotiations to partition, dismember, annex or incorporate the sovereign territory of Bosnia and Herzegovina.

3. That the annexation or incorporation of any sovereign territory of the Republic of Bosnia and Herzegovina by Yugoslavia (Serbia and Montenegro) by any means or for any reason shall be deemed illegal, null, and void ab initio.

4. That the Government of Bosnia and Herzegovina must have the means 'to prevent' the commission of acts of genocide against its own People as required by Article I of the Genocide Convention.

5. That all Contracting Parties to the Genocide Convention are obliged by Article I thereof 'to prevent' the commission of acts of genocide against the People and State of Bosnia and Herzegovina.

6. That the Government of Bosnia and Herzegovina must have the means to defend the People and State of Bosnia and Herzegovina from acts of genocide and partition and dismemberment by means of genocide.

7. That all Contracting Parties to the Genocide Convention have the obligation thereunder 'to prevent' acts of genocide, and partition and dismemberment by means of genocide, against the People and State of Bosnia and Herzegovina.

8. That in order to fulfil its obligations under the Genocide Convention under the current circumstance, the Government of Bosnia and Herzegovina must have the ability to obtain military weapons, equipment, and supplies from other Contracting Parties.

9. That in order to fulfil their obligations under the Genocide Convention under the current circumstances, all Contracting Parties thereto must have the ability to provide military weapons, equipment, supplies and armed forces (soldiers, sailors, airpeople) to the Government of Bosnia and Herzegovina at its request.

10. That United Nations Peacekeeping Forces in Bosnia and Herzegovina (i.e., UNPROFOR) must do all in their power to ensure the flow of humanitarian relief supplies to the Bosnian People through the Bosnian city of Tuzla."

175. On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court, "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects", and stating:

"I do now call upon the Parties so to act, and I stress that the provisional measures already indicated in the Order which the Court made after hearing the Parties, on 8 April 1993, still apply.

Accordingly I call upon the Parties to take renewed note of the Court's Order and to take all and any measures that may be within their power to prevent any commission, continuance, or encouragement of the heinous international crime of genocide."

176. On 10 August 1993 Yugoslavia filed a request, dated 9 August 1993, for the indication of provisional measures, whereby it requested the Court to indicate the following provisional measure:

"The Government of the so-called Republic of Bosnia and Herzegovina should immediately, in pursuance of its obligation under the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide against the Serb ethnic group."

177. The hearings concerning the requests for the indication of provisional measures were held on 25 and 26 August 1993. In the course of two public sittings the Court heard statements from each of the Parties.

178. At a public sitting held on 13 September 1993, the President of the Court read out the Order concerning requests for the indication of provisional measures (I.C.J. Reports 1993, p. 325) by which the Court reaffirmed the provisional measures indicated in its Order of 8 April 1993, which measures, the Court stated, should be immediately and effectively implemented.

179. Judge Oda appended a declaration to the Order; Judges Shahabuddeen, Weeramantry and Ajibola and Judge ad hoc Lauterpacht appended their individual opinions; and Judge Tarassov and Judge ad hoc Kreća appended their dissenting opinions.

180. By an Order of 7 October 1993 (I.C.J. Reports 1993, p. 470), the Vice-President of the Court, at the request of Bosnia and Herzegovina and after Yugoslavia had expressed its opinion, extended to 15 April 1994 the time-limit for the filing of the Memorial of Bosnia and Herzegovina, and to 15 April 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia. The Memorial was filed within the prescribed time-limit.

181. By an Order of 21 March 1995 (I.C.J. Reports 1995, p. 80), the President of the Court, upon a request of the Agent of Yugoslavia and after the views of Bosnia and Herzegovina had been ascertained, extended to 30 June 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia.

182. On 26 June 1995, within the extended time-limit for the filing of its Counter-Memorial, Yugoslavia, filed certain preliminary objections in the above case. The objections related, firstly, to the admissibility of the Application and, secondly, to the jurisdiction of the Court to deal with the case.

183. By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provision of that Article.

184. By an Order of 14 July 1995 (I.C.J. Reports 1995, p. 279), the President of the Court, taking into account the views expressed by the Parties, fixed 14 November 1995 as the time-limit within which the Republic of Bosnia and Herzegovina might present a written statement of its observations and submissions on the preliminary objections raised by the Federal Republic of Yugoslavia. Bosnia and Herzegovina filed such a statement within the prescribed time-limit.

185. Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by Yugoslavia were held between 29 April and 3 May 1996.

186. At a public sitting held on 11 July 1996, the Court delivered its Judgment on the preliminary objections (I.C.J. Reports 1996, p. 595), by which it rejected the objections raised by Yugoslavia, finding that, on the basis of Article XI of the Convention on the Prevention and Punishment of the Crime of Genocide, it had jurisdiction; dismissed the additional basis of jurisdiction invoked by Bosnia and Herzegovina and found that the Application was admissible.

187. Judge Oda appended a declaration to the Judgment of the Court; Judges Shi and Vereshchetin appended a joint declaration; Judge ad hoc Lauterpacht also appended a declaration; Judges Shahabuddeen, Weeramantry and Parra-Aranguren appended separate opinions to the Judgment; Judge ad hoc Kreća appended a dissenting opinion.

188. By an Order of 23 July 1996 (I.C.J. Reports 1996, p. 797), the President of the Court, taking into account the views expressed by the Parties, fixed 23 July 1997 as the time-limit for the filing of the Counter-Memorial of Yugoslavia. The Counter-Memorial was filed within the prescribed time-limit. It included counter-claims, by which Yugoslavia requested the Court to adjudge and declare:

> "3. Bosnia and Herzegovina is responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina and for other violations of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide:
>
> — because it has incited acts of genocide by the 'Islamic Declaration', and in particular by the position contained in it that 'there can be no peace or coexistence between "Islamic faith" and "non-Islamic" social and political institutions';

— because it has incited acts of genocide by the Novi Vox, paper of the Muslim youth, and in particular by the verses of a 'Patriotic Song' which reads as follows:

'Dear mother, I'm going to plant willows,

We'll hang Serbs from them.

Dear mother, I'm going to sharpen knives,

We'll soon fill pits again';

— because it has incited acts of genocide by the paper Zmaj od Bosne, and in particular by the sentence in an article published in it that 'Each Muslim must name a Serb and take oath to kill him';

— because public calls for the execution of Serbs were broadcast on radio 'Hajat' and thereby acts of genocide were incited;

— because the armed forces of Bosnia and Herzegovina, as well as other organs of Bosnia and Herzegovina have committed acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs in Bosnia and Herzegovina, which have been stated in Chapter Seven of the Counter-Memorial;

— because Bosnia and Herzegovina has not prevented the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs on its territory, which have been stated in Chapter Seven of the Counter-Memorial.

4. Bosnia and Herzegovina has the obligation to punish the persons held responsible for the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

5. Bosnia and Herzegovina is bound to take necessary measures so that the said acts would not be repeated in the future.

6. Bosnia and Herzegovina is bound to eliminate all consequences of the violation of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and provide adequate compensation."

189. By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that "the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings."

190. At a meeting which the President of the Court held on 22 September 1997 with the Agents of the Parties both Parties accepted that their respective Governments would submit written observations on the question of the admissibility of the Yugoslav Counter-Claims.

191. After Bosnia and Herzegovina and Yugoslavia, in communications dated 9 October and 23 October 1997 respectively, had submitted written observations the Court, by an Order of 17 December 1997 (I.C.J. Reports 1997, p. 243), found that the Counter-Claims submitted by Yugoslavia in its Counter-Memorial were admissible as such and formed part of the proceedings. It further directed Bosnia and Herzegovina to submit a Reply and Yugoslavia to submit a Rejoinder relating to the claims of both Parties, and fixed the time-limits for those pleadings at 23 January and 23 July 1998 respectively. The Court considered moreover that it was necessary, in order to ensure strict equality between the Parties, to reserve the right of Bosnia and Herzegovina to present its views in writing a second time on the Yugoslav counter-claim, in an additional pleading which might be the subject of a subsequent Order.

192. Judge ad hoc Kreća appended a declaration to the Order; Judge Koroma and Judge ad hoc Lauterpacht appended separate opinions; and Vice-President Weeramantry appended a dissenting opinion.

193. By an Order of 22 January 1998 (I.C.J. Reports 1998, p. 3), the President of the Court, at the request of Bosnia and Herzegovina and taking into account the views expressed by Yugoslavia,

extended the time-limits for the Reply of Bosnia and Herzegovina and the Rejoinder of Yugoslavia to 23 April 1998 and 22 January 1999 respectively. The Reply of Bosnia and Herzegovina was filed within the prescribed time-limit.

194. Following a request from Yugoslavia and after the views of Bosnia and Herzegovina had been ascertained, the Court, by an Order of 11 December 1998, extended the time-limit for the filing of Yugoslavia's Rejoinder to 22 February 1999. That Rejoinder was filed within the time-limit thus extended.

195. Since then several exchanges of letters have taken place concerning new procedural difficulties in the case.

6. Gabčíkovo-Nagymaros Project (Hungary/Slovakia)

196. On 23 October 1992 the Ambassador of the Republic of Hungary to the Netherlands filed in the Registry of the International Court of Justice an Application instituting proceedings against the Czech and Slovak Federal Republic in a dispute concerning the projected diversion of the Danube. In that document the Hungarian Government, before detailing its case, invited the Czech and Slovak Federal Republic to accept the jurisdiction of the Court.

197. A copy of the Application was transmitted to the Government of the Czech and Slovak Federal Republic in accordance with Article 38, paragraph 5, of the Rules of Court, which reads as follows:

> "When the Applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

198. Following negotiations under the aegis of the European Communities between Hungary and the Czech and Slovak Federal Republic, which dissolved into two separate States on 1 January 1993, the Governments of the Republic of Hungary and of the Slovak Republic notified jointly, on 2 July 1993, to the Registrar of the Court a Special Agreement, signed at Brussels on 7 April 1993, for the submission to the Court of certain issues arising out of differences which had existed between the Republic of Hungary and the Czech and Slovak Federal Republic, regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the Construction and Operation of the Gabčíkovo-Nagymaros Barrage System and on the construction and operation of the "provisional solution". The Special Agreement records that the Slovak Republic is in this respect the sole successor State of the Czech and Slovak Federal Republic.

199. In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> (a) whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
>
> (b) whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1.7 on Czechoslovak territory and resulting consequences on water and navigation course);
>
> (c) what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.

(2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph (1) of this Article."

200. By an Order of 14 July 1993 (I.C.J. Reports 1993, p. 319), the Court decided that, as provided in Article 3, paragraph 2, of the Special Agreement and Article 46, paragraph 1, of the Rules of Court, each Party should file a Memorial and a Counter-Memorial, within the same time-limit, and fixed 2 May 1994 and 5 December 1994 as the time-limits for the filing of the Memorial and Counter-Memorial, respectively. The Memorials and Counter-Memorials were filed within the prescribed time-limits.

201. Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge ad hoc.

202. By an Order of 20 December 1994 (I.C.J. Reports 1994, p. 151), the President of the Court, taking into account the views of the Parties, fixed 20 June 1995 as the time-limit for the filing of a Reply by each of the Parties. Those Replies were filed within the prescribed time-limit.

203. In June 1995 the Agent of Slovakia asked the Court, by letter, to visit the site of the Gabčíkovo-Nagymaros hydroelectric dam project on the river Danube with regard to the obtaining of evidence in the above case. The Agent of Hungary thereupon informed the Court that his country would be pleased to co-operate in organizing such a visit.

204. In November 1995, in Budapest and New York, the two Parties then signed a "Protocol of Agreement" on the proposal of a visit by the Court, which, after dates had been fixed with the approval of the Court, was supplemented by Agreed Minutes on 3 February 1997.

205. By an Order of 5 February 1997 (I.C.J. Reports 1997, p. 3) the Court decided to "exercise its functions with regard to the obtaining of evidence by visiting a place or locality to which the case relates" (cf. Art. 66 of the Rules of Court) and to "adopt to that end the arrangements proposed by the Parties". The visit, which was the first in the Court's fifty-year history, took place from 1 to 4 April 1997, between the first and seconds round of oral hearings.

206. The first round of those hearings took place from 3 to 7 March and from 24 to 27 March 1997. The second round took place on 10 and 11 and on 14 and 15 April 1997.

207. At a public sitting held on 25 September 1997 (I.C.J. Reports 1997, p. 7), the Court delivered its Judgment, by which,

"(1) Having regard to Article 2, paragraph 1, of the Special Agreement it [found]:

A. that Hungary had not been entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty of 16 September 1977 and related instruments attributed responsibility to it;

B. that Czechoslovakia had been entitled to proceed, in November 1991, to the "provisional solution" as described in the terms of the Special Agreement;

C. that Czechoslovakia had not been entitled to put into operation, from October 1992, this "provisional solution";

D. that the notification, on 19 May 1992, of the termination of the Treaty of 16 September 1977 and related instruments by Hungary had not had the legal effect of terminating them; and,

(2) Having regard to Article 2, paragraph 2, and Article 5 of the Special Agreement, it found:

A. that Slovakia, as successor to Czechoslovakia, had become a party to the Treaty of 16 September 1977 as from 1 January 1993;

B. that Hungary and Slovakia should negotiate in good faith in the light of the prevailing situation, and should take all necessary measures to ensure the achievement of the objectives of the Treaty of 16 September 1977, in accordance with such modalities as they might agree upon;

C. that, unless the Parties otherwise agreed, a joint operational régime should be established in accordance with the Treaty of 16 September 1977;

D. that, unless the Parties otherwise agreed, Hungary should compensate Slovakia for the damage sustained by Czechoslovakia and by Slovakia on account of the suspension and abandonment by Hungary of works for which it was responsible; and Slovakia should compensate Hungary for the damage it has sustained on account of the putting into operation of the "provisional solution" by Czechoslovakia and its maintenance in service by Slovakia; and

E. that the settlement of accounts for the construction and operation of the works should be effected in accordance with the relevant provisions of the Treaty of 16 September 1977 and related instruments, taking due account of such measures as would have been taken by the Parties in application of points 2 B and C of the operative paragraph."

208. President Schwebel and Judge Rezek appended declarations to the Judgment. Vice-President Weeramantry, Judges Bedjaoui and Koroma appended separate opinions. Judges Oda, Ranjeva, Herczegh, Fleischhauer, Vereshchetin and Parra-Aranguren, and Judge ad hoc Skubiszewski appended dissenting opinions.

209. On 3 September 1998 Slovakia filed in the Registry of the Court a request for an additional Judgment in the case. Such an additional Judgment was necessary, according to Slovakia, because of the unwillingness of Hungary to implement the Judgment delivered by the Court in that case on 25 September 1997.

210. In its request, Slovakia stated that the Parties had conducted a series of negotiations on the modalities for executing the Court's Judgment and had initialled a draft Framework Agreement, which had been approved by the Government of Slovakia on 10 March 1998. Slovakia contended that on 5 March 1998 Hungary had postponed its approval and, upon the accession of its new Government following the May elections, it had proceeded to disavow the draft Framework Agreement and was further delaying the implementation of the Judgment. Slovakia maintained that it wanted the Court to determine the modalities for executing the Judgment.

211. As the basis for its request, Slovakia invoked Article 5 (3) of the Special Agreement signed at Brussels on 7 April 1993 by itself and Hungary with a view to the joint submission of their dispute to the Court.

212. The full text of Article 5 reads as follows:

"(1) The Parties shall accept the Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.

(2) Immediately after the transmission of the Judgment the Parties shall enter into negotiations on the modalities for its execution.

(3) If they are unable to reach agreement within six months, either Party may request the Court to render an additional Judgment to determine the modalities for executing its Judgment."

213. Slovakia asked the Court

"to adjudge and declare:

1. That Hungary bears responsibility for the failure of the Parties so far to agree on the modalities for executing the Judgment of 25 September 1997;

2. That in accordance with the Court's Judgment of 25 September 1997, the obligation of the Parties to take all necessary measures to ensure that achievement of the objectives of the Treaty of 16 September 1977 (by which they agreed to build the Gabčíkovo-Nagymaros Project) applies to the whole geographical area and the whole range of relationships covered by that Treaty;

3. That, in order to ensure compliance with the Court's Judgment of 25 September 1997, and given that the 1977 Treaty remains in force and that the

Parties must take all necessary measures to ensure the achievement of the objectives of that Treaty:

(a) With immediate effect, the two Parties shall resume their negotiations in good faith so as to expedite their agreement on the modalities for achieving the objectives of the Treaty of 16 September 1977;

(b) In particular, Hungary is bound to appoint forthwith its Plenipotentiary as required under Article 3 of the Treaty, and to utilize all mechanisms for joint studies and co-operation established by the Treaty, and generally to conduct its relations with Slovakia on the basis of the Treaty;

(c) The Parties shall proceed by way of a Framework Agreement leading to a Treaty providing for any necessary amendments to the 1977 Treaty;

(d) In order to achieve this result, the Parties shall conclude a binding Framework Agreement not later than 1 January 1999;

(e) The Parties shall reach a final agreement on the necessary measures to ensure the achievement of the objectives of the 1977 Treaty in a treaty to enter into force by 30 June 2000;

4. That, should the Parties fail to conclude a Framework Agreement or a final agreement by the dates specified at sub-paragraphs 3 (d) and (e) above:

(a) The 1977 Treaty must be complied with in accordance with its spirit and terms; and

(b) Either party may request the Court to proceed with the allocation of responsibility for any breaches of the Treaty and reparation for such breaches."

214. At a meeting that the President of the Court held with the representatives of the Parties on 7 October 1998, it was decided that Hungary was to file by 7 December 1998 a written statement of its position on the request for an additional Judgment made by Slovakia. Hungary filed its written statement within the time-limit fixed. The Parties subsequently have resumed negotiations and have informed the Court on a regular basis of the progress in them.

7. Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening)

215. On 29 March 1994 the Republic of Cameroon filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Nigeria in a dispute concerning the question of sovereignty over the peninsula of Bakassi, and requesting the Court to determine the course of the maritime frontier between the two States in so far as that frontier had not already been established in 1975.

216. As a basis for the jurisdiction of the Court, the Application refers to the declarations made by Cameroon and Nigeria under Article 36, paragraph 2, of the Statute of the Court, by which they accept that jurisdiction as compulsory.

217. In the Application Cameroon refers to "an aggression by the Federal Republic of Nigeria, whose troops are occupying several Cameroonian localities on the Bakassi peninsula", resulting "in great prejudice to the Republic of Cameroon", and requests the Court to adjudge and declare:

"(a) that sovereignty over the peninsula of Bakassi is Cameroonian, by virtue of international law, and that that peninsula is an integral part of the territory of Cameroon;

(b) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization (uti possidetis juris);

(c) that by using force against the Republic of Cameroon, the Federal Republic of Nigeria has violated and is violating its obligations under international treaty law and customary law;

(d) that the Federal Republic of Nigeria, by militarily occupying the Cameroonian peninsula of Bakassi, has violated and is violating the obligations incumbent upon it by virtue of treaty law and customary law;

(e) that in view of these breaches of legal obligation, mentioned above, the Federal Republic of Nigeria has the express duty of putting an end to its military presence in Cameroonian territory, and effecting an immediate and unconditional withdrawal of its troops from the Cameroonian peninsula of Bakassi;

(e) that the internationally unlawful acts referred to under (a), (b), (c), (d), and (e) above involve the responsibility of the Federal Republic of Nigeria;

(e') that, consequently, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] the precise assessment of the damage caused by the Federal Republic of Nigeria;

(f) in order to prevent any dispute arising between the two States concerning their maritime boundary, the Republic of Cameroon requests the Court to proceed to prolong the course of its maritime boundary with the Federal Republic of Nigeria up to the limit of the maritime zones which international law places under their respective jurisdictions".

218. On 6 June 1994 Cameroon filed in the Registry of the Court an Additional Application "for the purpose of extending the subject of the dispute" to a further dispute described as relating essentially "to the question of sovereignty over a part of the territory of Cameroon in the area of Lake Chad", while also asking the Court to specify definitively the frontier between Cameroon and Nigeria from Lake Chad to the sea. Cameroon requested the Court to adjudge and declare:

"(a) that sovereignty over the disputed parcel in the area of Lake Chad is Cameroonian, by virtue of international law, and that that parcel is an integral part of the territory of Cameroon;

(b) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization (uti possidetis juris), and its recent legal commitments concerning the demarcation of frontiers in Lake Chad;

(c) that the Federal Republic of Nigeria, by occupying, with the support of its security forces, parcels of Cameroonian territory in the area of Lake Chad, has violated and is violating its obligations under treaty law and customary law;

(d) that in view of these legal obligations, mentioned above, the Federal Republic of Nigeria has the express duty of effecting an immediate and unconditional withdrawal of its troops from Cameroonian territory in the area of Lake Chad;

(e) that the internationally unlawful acts referred to under (a), (b), and (d) above involve the responsibility of the Federal Republic of Nigeria;

(e') that consequently, and on account of the material and non-material damage inflicted upon the Republic of Cameroon, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] a precise assessment of the damage caused by the Federal Republic of Nigeria;

(f) that in view of the repeated incursions of Nigerian groups and armed forces into Cameroonian territory, all along the frontier between the two countries, the consequent grave and repeated incidents, and the vacillating and contradictory attitude of the Federal Republic of Nigeria in regard to the legal instruments defining the frontier between the two countries and the exact course of that frontier, the Republic of Cameroon respectfully asks the Court to specify definitively the frontier between Cameroon and the Federal Republic of Nigeria from Lake Chad to the sea".

219. Cameroon further requested the Court to join the two Applications "and to examine the whole in a single case".

220. At a meeting between the President of the Court and the representatives of the Parties held on 14 June 1994, the Agent of Nigeria indicated that his Government had no objection to the Additional Application being treated as an amendment to the initial Application, so that the Court could deal with the whole as one case.

221. Cameroon chose Mr. Kéba Mbaye and Nigeria Mr. Bola A. Ajibola to sit as judges ad hoc.

222. By an Order of 16 June 1994 (I.C.J. Reports 1994, p. 105), the Court, seeing no objection to the suggested procedure, fixed 16 March 1995 as the time-limit for filing the Memorial of Cameroon, and 18 December 1995 as the time-limit for filing the Counter-Memorial of Nigeria. The Memorial was filed within the prescribed time-limit.

223. On 13 December 1995, within the time-limit for the filing of its Counter-Memorial, Nigeria filed certain preliminary objections to the jurisdiction of the Court and to the admissibility of the claims of Cameroon.

224. By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

225. By an Order of 10 January 1996 (I.C.J. Reports 1996, p. 3), the President of the Court, taking into account the views expressed by the Parties at a meeting between the President and the Agents of the Parties held on 10 January 1996, fixed 15 May 1996 as the time-limit within which Cameroon might present a written statement of its observations and submissions on the preliminary objections raised by Nigeria. Cameroon filed such a statement within the prescribed time-limit.

226. On 12 February 1996, the Registry of the International Court of Justice received from Cameroon a request for the indication of provisional measures, with reference to "serious armed incidents" which had taken place between Cameroonian and Nigerian forces in the Bakassi Peninsula beginning on 3 February 1996.

227. In its request Cameroon referred to the submissions made in its Application of 29 May 1994, supplemented by an Additional Application of 6 June of that year, as also summed up in its Memorial of 16 March 1995, and requested the Court to indicate the following provisional measures:

> "(1) the armed forces of the Parties shall withdraw to the position they were occupying before the Nigerian armed attack of 3 February 1996;
>
> (2) the Parties shall abstain from all military activity along the entire boundary until the judgment of the Court is given;
>
> (3) the Parties shall abstain from any act or action which might hamper the gathering of evidence in the present case".

228. Public sittings to hear the oral observations of the Parties on the request for the indication of provisional measures were held between 5 and 8 March 1996.

229. At a public sitting, held on 15 March 1996, the President of the Court read the Order on the request for provisional measures made by Cameroon (I.C.J. Reports 1996, p. 13), by which the Court indicated that "both Parties should ensure that no action of any kind, and particularly no action by their armed forces, is taken which might prejudice the rights of the other in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before it;" that they "should observe the agreement reached between the Ministers for Foreign Affairs in Kara, Togo, on 17 February 1996, for the cessation of all hostilities in the Bakassi Peninsula;" that they "should ensure that the presence of any armed forces in the Bakassi Peninsula does not extend beyond the positions in which they were situated prior to 3 February 1996;" that they "should take all necessary steps to conserve evidence relevant to the present case within the disputed area;" and that they "should lend every assistance to the fact-finding mission which the Secretary-General of the United Nations has proposed to send to the Bakassi Peninsula".

230. Judges Oda, Shahabuddeen, Ranjeva and Koroma appended declarations to the Order of the Court; Judges Weeramantry, Shi and Vereshchetin appended a joint declaration; Judge ad hoc Mbaye also appended a declaration. Judge ad hoc Ajibola appended a separate opinion to the Order.

231. Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by Nigeria were held from 2 to 11 March 1998.

232. At a public sitting held on 11 June 1998, the Court delivered its Judgment on the preliminary objections (I.C.J. Reports 1998, p. 275), by which it rejected seven of Nigeria's eight preliminary objections; declared that the eighth preliminary objection did not have, in the circumstances of the case, an exclusively preliminary character; and found that, on the basis of Article 36, paragraph 2, of the Statute, it had jurisdiction to adjudicate upon the dispute and that the Application filed by Cameroon on 29 March 1994, as amended by the Additional Application of 6 June 1994, was admissible.

233. Judges Oda, Vereshchetin, Higgins, Parra-Aranguren and Kooijmans appended separate opinions to the Judgment; Vice-President Weeramantry, Judge Koroma and Judge ad hoc Ajibola appended dissenting opinions.

234. By an Order of 30 June 1998 (I.C.J. Reports 1998, p. 420), the Court, having been informed of the views of the Parties, fixed 31 March 1999 as the time-limit for the filing of the Counter-Memorial of Nigeria.

235. On 28 October Nigeria filed a request for an interpretation of the Court's Judgment on preliminary objections of 11 June 1998. This request for interpretation formed a separate case, in which the Court delivered its Judgment on 25 March 1999.

236. On 23 February 1999 Nigeria made a request for extension of the time-limit for the deposit of its Counter-Memorial, because it would "not be in a position to complete its Counter-Memorial until it [knew] the outcome of its request for interpretation as it [did] not at present know the scope of the case it [had] to answer on State Responsibility". By a letter of 27 February 1999 the Agent of Cameroon informed the Court that his Government "[was] resolutely opposed to the granting of Nigeria's request", as its dispute with Nigeria "call[ed] for a rapid decision".

237. By an Order of 3 March 1999 (I.C.J. Reports 1999, p. 24), the Court — considering that although a request for interpretation "cannot in itself suffice to justify the extension of a time-limit, it should nevertheless, given the circumstances of the case, grant Nigeria's request" — extended to 31 May 1999 the time-limit for the filing of Nigeria's Counter-Memorial. The Counter-Memorial was filed within the time-limit thus extended.

238. The Counter-Memorial included counter-claims, specified in Part VI. At the end of each section dealing with a particular sector of the frontier, the Nigerian Government asked the Court to declare that the incidents referred to

> "engage the international responsibility of Cameroon, with compensation in the form of damages, if not agreed between the parties, then to be awarded by the Court in a subsequent phase of the case";

239. The seventh and final submission set out by the Nigerian Government in its Counter-Memorial reads as follows:

> "as to Nigeria's counter-claims as specified in Part VI of this Counter-Memorial, [the Court is asked to] adjudge and declare that Cameroon bears responsibility to Nigeria in respect of those claims, the amount of reparation due therefor, if not agreed between the parties within six months of the date of judgment, to be determined by the Court in a further judgment".

240. In an Order of 30 June 1999 the Court found that Nigeria's counter-claims were admissible as such and formed part of the proceedings; it further decided that Cameroon should submit a Reply and Nigeria a Rejoinder, relating to the claims of both Parties, and fixed the time-limits for those pleadings at 4 April 2000 and 4 January 2001 respectively.

241. On 30 June 1999 the Republic of Equatorial Guinea filed an Application for permission to intervene in the case.

242. In its Application, Equatorial Guinea stated that the purpose of its intervention would be "to protect [its] legal rights in the Gulf of Guinea by all legal means" and "to inform the Court of Equatorial Guinea's legal rights and interests so that these may remain unaffected as the Court proceeds to address the question of the maritime boundary between Cameroon and Nigeria". Equatorial Guinea made it clear that it did not seek to intervene in those aspects of the proceedings that relate to the land boundary between Cameroon and Nigeria, nor to become a party to the case. It further stated that, although it would be open to the three countries to request the Court not only to determine the Cameroon-Nigeria maritime boundary but also to determine Equatorial Guinea's maritime boundary with these two States, Equatorial Guinea had made no such request and wished to continue to seek to determine its maritime boundary with its neighbours by negotiation.

243. The Court fixed 16 August 1999 as the time-limit for the filing of written observations on Equatorial Guinea's Application by Cameroon and Nigeria. Those written observations were filed within the prescribed time-limits.

244. By an Order of 21 October 1999 the Court permitted Equatorial Guinea to intervene in the case, pursuant to Article 62 of the Statute, to the extent, in the manner and for the purposes set out in its Application for permission to intervene, and fixed 4 April 2001 as the time-limit for the filing of the written statement of the Republic of Equatorial Guinea and 4 July 2001 for the written observations of the Republic of Cameroon and of the Federal Republic of Nigeria. Equatorial Guinea's written statement was filed within the prescribed time-limit.

245. By an Order of 20 February 2001 the Court, at the request of Cameroon and taking into account of the agreement of the Parties, authorized the submission by Cameroon of an additional pleading, relating solely to the counter-claims submitted by Nigeria and fixed 4 July 2001 as the time-limit for the filing of that pleading.

246. Following the filing of the various pleadings which were due to be lodged on 4 July 2001, the case is now ready for hearing.

8. Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)

247. On 2 November 1998, the Republic of Indonesia, and Malaysia jointly notified to the Court a Special Agreement between the two States, signed at Kuala Lumpur on 31 May 1997 and having entered into force on 14 May 1998, in which they request the Court

> "to determine on the basis of the treaties, agreements and any other evidence furnished by the Parties, whether sovereignty over Pulau Ligitan and Pulau Sipadan belongs to the Republic of Indonesia or to Malaysia";

248. By an Order of 10 November 1998 (I.C.J. Reports 1998, p. 429), the Court, taking into account the provisions of the Special Agreement on the written pleadings, fixed 2 November 1999 and 2 March 2000 respectively as the time-limits for the filing by each of the Parties of a Memorial and a Counter-Memorial.

249. By an Order of 14 September 1999 the Court, at a request jointly made by the Parties, extended the time-limit for the filing of the Counter-Memorials to 2 July 2000.

250. Indonesia chose Mr. Mohamed Shahabuddeen and Malaysia chose Mr. Christopher G. Weeramantry to sit as judges ad hoc.

251. The Memorials were filed within the time-limit of 2 November 1999 as fixed by the Court's Order of 10 November 1998.

252. By an Order of 11 May 2000 (I.C.J. Reports 2000, p. 9), the President of the Court, again at a request jointly made by the Parties, extended the time-limit for the filing of the Counter-Memorials another time, to 2 August 2000. The Counter-Memorials were filed within the time-limit thus extended.

253. By an Order of 19 October 2000 the President of the Court, having regard to the Special Agreement and taking account of the agreement between the Parties, fixed 2 March 2001 as the

time-limit for the filing of a Reply by each of the Parties. Those Replies were duly filed within the prescribed time-limit.

254. On 13 March 2001 the Philippines filed an Application for permission to intervene in the case.

255. In its Application for permission to intervene, the Philippines stated that it wished to intervene in the proceedings in order "to preserve and safeguard [its Government's] historical and legal rights . . . arising from its claim to dominion and sovereignty over the territory of North Borneo, to the extent that these rights are affected, or may be affected, by a determination of the Court of the question of sovereignty over Pulau Ligitan and Pulau Sipadan"; "to inform the . . . Court of the nature and extent of [those] rights"; and "to appreciate more fully the indispensable role of the . . . Court in comprehensive conflict prevention". The Philippines made it clear that it did not seek to become a party to the case. The Philippines further maintained that "[its] Constitution . . . as well as its legislation, ha[d] laid claim to dominion and sovereignty over North Borneo". According to the Philippines, "[t]his . . . claim . . . ha[d] been the subject of diplomatic negotiations, official international correspondence, and peaceful discussions which ha[d] not been concluded. A decision by the Court, or that incidental part of a decision by the Court, which [would] lay down an appreciation of specific treaties, agreements and other evidence bearing on the legal status of North Borneo [would] inevitably and most assuredly affect the outstanding territorial claim of . . . the Philippines to North Borneo, as well as the direct legal right and interest of the Philippines to settle that claim by peaceful means."

256. The Court fixed 2 May 2001 as the time-limit for the filing of written observations on the Philippines' Application by Indonesia and Malaysia.

257. In their written observations, filed within the prescribed time-limit, Indonesia and Malaysia objected to the Application for permission to intervene by the Philippines. Indonesia inter alia stated that the Application should be rejected as untimely and that the Philippines had not demonstrated that it possessed an interest of legal nature which might be affected by a decision of the Court in the case. Malaysia, for its part, stated that the Philippines had no interest of a legal nature in the dispute, that its request had no proper object and that the Court should in any event reject that request.

258. Accordingly, pursuant to Article 84, paragraph 2, of its Rules, the Court decided to hold sittings in order to hear the arguments of the Philippines, Indonesia and Malaysia before deciding whether the Application for permission to intervene should be granted. Those sittings were held on 25, 26, 28 and 29 June 2001. Meanwhile, Indonesia, after the resignation of Mr. Mohamed Shahabuddeen, had chosen Mr. Thomas Franck to sit as judge ad hoc.

259. At the time of preparation of this Report, the Court was deliberating on its Judgment.

9. Ahmadou Sadio Diallo (Republic of Guinea v. Democratic Republic of the Congo)

260. On 28 December 1998 the Republic of Guinea instituted proceedings against the Democratic Republic of the Congo by an "Application with a view to diplomatic protection", in which it requested the Court to "condemn the Democratic Republic of the Congo for the grave breaches of international law perpetrated upon the person of a Guinean national", Mr. Ahmadou Sadio Diallo.

261. According to Guinea, Mr. Ahmadou Sadio Diallo, a businessman who had been a resident of the Democratic Republic of the Congo for 32 years, was "unlawfully imprisoned by the authorities of that State" during two and a half months, "divested from his important investments, companies, bank accounts, movable and immovable properties, then expelled" on 2 February 1996 as a result of his attempts to recover sums owed to him by the Democratic Republic of the Congo (especially by Gécamines, a State enterprise with a monopoly with regard to mining) and by oil companies operating in that country (Zaïre Shell, Zaïre Mobil and Zaïre Fina) by virtue of contracts concluded with businesses owned by him, Africom-Zaïre and Africacontainers-Zaïre.

262. As a basis of the Court's jurisdiction, Guinea invoked its own declaration of acceptance of the compulsory jurisdiction of the Court, of 11 November 1998 and the declaration of the Democratic Republic of the Congo of 8 February 1989.

263. By an Order of 25 November 1999 the Court, taking into account the agreement of the Parties, fixed 11 September 2000 as the time-limit for the filing of a Memorial by Guinea and 11 September 2001 for the filing of a Counter-Memorial by the Democratic Republic of the Congo.

264. By an Order of 8 September 2000 the President of the Court, at the request of Guinea and after the views of the other Party had been ascertained, extended to 23 March 2001 and 4 October 2002 the respective time-limits for that Memorial and Counter-Memorial. The Memorial was filed within the time-limit thus extended.

10. LaGrand (Germany v. United States of America)

265. On 2 March 1999 the Federal Republic of Germany filed in the Registry of the Court an Application instituting proceedings against the United States of America for violations of the Vienna Convention on Consular Relations of 24 April 1963 allegedly committed by the United States.

266. In the Application Germany based the jurisdiction of the Court on Article 36, paragraph 1, of the Statute of the Court and on Article I of the Optional Protocol concerning the Compulsory Settlement of Disputes, which accompanies the Vienna Convention on Consular Relations ("the Optional Protocol").

267. In the Application, Germany stated that in 1982 the authorities of the State of Arizona detained two German nationals, Karl and Walter LaGrand; that these individuals were tried and sentenced to death without having been informed, as was required under Article 36, subparagraph 1 (b), of the Vienna Convention, of their rights under that provision (which requires the competent authorities of a State party to advise, "without delay", a national of another State party whom such authorities arrest or detain of the national's right to consular assistance guaranteed by Article 36). Germany also alleged that the failure to provide the required notification precluded it from protecting its nationals' interests in the United States provided for by Articles 5 and 36 of the Vienna Convention at both the trial and the appeal level in the United States courts.

268. Germany stated that it had been, until very recently, the contention of the authorities of the State of Arizona that they had been unaware of the fact that Karl and Walter LaGrand were nationals of Germany; and that it had accepted that contention as true. However, during the proceedings before the Arizona Mercy Committee on 23 February 1999, the State Attorney admitted that the authorities of the State of Arizona had indeed been aware since 1982 that the two detainees were German nationals. Germany further stated that Karl and Walter LaGrand, finally with the assistance of German consular officers, did claim violations of the Vienna Convention before the Federal Court of First Instance; that that court, applying the municipal law doctrine of "procedural default", decided that, because the individuals in question had not asserted their rights under the Vienna Convention in the previous legal proceedings at State level, they could not assert them in the Federal habeas corpus proceedings; and that the intermediate federal appellate court, last means of legal recourse in the United States available to them as of right, affirmed this decision.

269. On 2 March 1999 Germany also submitted an urgent request for the indication of provisional measures.

270. In its request, Germany referred to the basis of jurisdiction of the Court invoked in its Application, and to the facts set out and the submissions made therein; it affirmed in particular that the United States had violated its obligations under the Vienna Convention.

271. Germany further recalled that Karl LaGrand had been executed on 24 February 1999, despite all appeals for clemency and numerous diplomatic interventions by the German Government at the highest level; that the date of execution of Walter LaGrand in the State of Arizona had been set for 3 March 1999; and that the request for the urgent indication of provisional measures was submitted in the interest of this latter individual. Germany emphasized that:

> "The importance and sanctity of an individual human life are well established in international law. As recognized by Article 6 of the International Covenant on Civil and Political Rights, every human being has the inherent right to life and this right shall be protected by law".

It added the following:

> "Under the grave and exceptional circumstances of this case, and given the paramount interest of Germany in the life and liberty of its nationals, provisional measures are urgently needed to protect the life of Germany's national Walter LaGrand and the ability of this Court to order the relief to which Germany is entitled in the case of Walter LaGrand, namely restoration of the status quo ante. Without the provisional measures requested, the United States will execute Walter LaGrand — as it did execute his brother Karl — before this Court can consider the merits of Germany's claims, and Germany will be forever deprived of the opportunity to have the status quo ante restored in the event of a judgment in its favour".

272. Germany asked the Court to indicate that:

> "The United States should take all measures at its disposal to ensure that Walter LaGrand is not executed pending the final decision in these proceedings, and should inform the Court of all the measures which it has taken in implementation of that Order";

it asked the Court moreover to consider its request as a matter of the greatest urgency "in view of the extreme gravity and immediacy of the threat of execution of a German citizen".

273. By a letter dated also 2 March 1999, the Vice-President of the Court addressed the Government of the United States in the following terms:

> "Exercising the functions of the presidency in terms of Articles 13 and 32 of the Rules of Court, and acting in conformity with Article 74, paragraph 4, of the said Rules, I hereby draw the attention of [the] Government [of the United States] to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects";

274. At a public sitting held on 3 March 1999, the Court rendered its Order on the request for the indication of provisional measures (I.C.J. Reports 1999, p. 9) by which it indicated the following provisional measures:

(a) The United States of America should take all measures at its disposal to ensure that Walter LaGrand is not executed pending the final decision in these proceedings, and should inform the Court of all the measures which it has taken in implementation of this Order;

(b) The Government of the United States of America should transmit this Order to the Governor of the State of Arizona;

and decided that, until the Court had given its final decision, it would remain seised of the matters which formed the subject-matter of the Order.

275. Judge Oda appended a declaration to the Order; President Schwebel a separate opinion.

276. By an Order of 5 March 1999 (I.C.J. Reports 1999, p. 28), the Court, taking into account the views of the Parties, fixed 16 September 1999 and 27 March 2000 as the time-limits for the filing of the Memorial of Germany and the Counter-Memorial of the United States respectively. The Memorial and Counter-Memorial were filed within the prescribed time-limit.

277. Public sittings to hear the oral arguments of the Parties were held from 13 to 17 November 2000.

278. At the conclusion of the oral proceedings Germany requested the Court to adjuge and declare:

> "(1) that the United States, by not informing Karl and Walter LaGrand without delay following their arrest of their rights under Article 36, subparagraph 1 (b), of the Vienna Convention on Consular Relations, and by depriving Germany of the possibility of rendering consular assistance, which ultimately resulted in the execution of Karl and Walter LaGrand, violated its international legal obligations to Germany, in its own right and in its right of diplomatic protection of its nationals, under Articles 5 and 36, paragraph 1, of the said Convention;

(2) that the United States, by applying rules of its domestic law, in particular the doctrine of procedural default, which barred Karl and Walter LaGrand from raising their claims under the Vienna Convention on Consular Relations, and by ultimately executing them, violated its international legal obligation to Germany under Article 36, paragraph 2, of the Vienna Convention to give full effect to the purposes for which the rights accorded under Article 36 of the said Convention are intended;

(3) that the United States, by failing to take all measures at its disposal to ensure that Walter LaGrand was not executed pending the final decision of the International Court of Justice on the matter, violated its international legal obligations to comply with the Order on Provisional Measures issued by the Court on 3 March 1999, and to refrain from any action which might interfere with the subject-matter of a dispute while judicial proceedings are pending;

and, pursuant to the foregoing international legal obligations,

(4) that the United States shall provide Germany an assurance that it will not repeat its unlawful acts and that, in any future cases of detention of or criminal proceedings against German nationals, the United States will ensure in law and practice the effective exercise of the rights under Article 36 of the Vienna Convention on Consular Relations. In particular in cases involving the death penalty, this requires the United States to provide effective review of and remedies for criminal convictions impaired by a violation of the rights under Article 36."

279. "The United States asked the Court to adjudge and declare that:

"(1) There was a breach of the United States obligation to Germany under Article 36 (1) (b) of the Vienna Convention on Consular Relations, in that the competent authorities of the United States did not promptly give to Karl and Walter LaGrand the notification required by that Article, and that the United States has apologized to Germany for this breach, and is taking substantial measures aimed at preventing any recurrence; and

(2) All other claims and submissions of the Federal Republic of Germany are dismissed."

280. At a public sitting held on 27 June 2001, the Court delivered its Judgment, the operative paragraph of which reads as follows:

"For these reasons,

THE COURT,

(1) By fourteen votes to one,

Finds that it has jurisdiction, on the basis of Article I of the Optional Protocol concerning the Compulsory Settlement of Disputes to the Vienna Convention on Consular Relations of 24 April 1963, to entertain the Application filed by the Federal Republic of Germany on 2 March 1999;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: Judge Parra-Aranguren;

(2) (a) By thirteen votes to two,

Finds that the first submission of the Federal Republic of Germany is admissible;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al- Khasawneh, Buergenthal;

AGAINST: Judges Oda, Parra-Aranguren;

(b) By fourteen votes to one,

Finds that the second submission of the Federal Republic of Germany is admissible;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: Judge Oda;

(c) By twelve votes to three,

Finds that the third submission of the Federal Republic of Germany is admissible;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh;

AGAINST: Judges Oda, Parra-Aranguren, Buergenthal;

(d) By fourteen votes to one,

Finds that the fourth submission of the Federal Republic of Germany is admissible;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: Judge Oda;

(3) By fourteen votes to one,

Finds that, by not informing Karl and Walter LaGrand without delay following their arrest of their rights under Article 36, paragraph 1 (b), of the Convention, and by thereby depriving the Federal Republic of Germany of the possibility, in a timely fashion, to render the assistance provided for by the Convention to the individuals concerned, the United States of America breached its obligations to the Federal Republic of Germany and to the LaGrand brothers under Article 36, paragraph 1;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: Judge Oda;

(4) By fourteen votes to one,

Finds that, by not permitting the review and reconsideration, in the light of the rights set forth in the Convention, of the convictions and sentences of the LaGrand brothers after the violations referred to in paragraph (3) above had been established, the United States of America breached its obligation to the Federal Republic of Germany and to the LaGrand brothers under Article 36, paragraph 2, of the Convention;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: Judge Oda;

(5) By thirteen votes to two,

Finds that, by failing to take all measures at its disposal to ensure that Walter LaGrand was not executed pending the final decision of the International Court of Justice in the case, the United States of America breached the obligation incumbent upon it under the Order indicating provisional measures issued by the Court on 3 March 1999;

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: Judges Oda, Parra-Aranguren;

(6) Unanimously,

Takes note of the commitment undertaken by the United States of America to ensure implementation of the specific measures adopted in performance of its obligations under Article 36, paragraph 1 (b), of the Convention; and finds that this commitment must be regarded as meeting the Federal Republic of Germany's request for a general assurance of non-repetition;

(7) By fourteen votes to one,

Finds that should nationals of the Federal Republic of Germany nonetheless be sentenced to severe penalties, without their rights under Article 36, paragraph 1 (b), of the Convention having been respected, the United States of America, by means of its own choosing, shall allow the review and reconsideration of the conviction and sentence by taking account of the violation of the rights set forth in that Convention.

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek, Al-Khasawneh, Buergenthal;

AGAINST: Judge Oda".

281. President Guillaume appended a declaration to the Judgment; Vice-President Shi a separate opinion; Judge Oda a dissenting opinion; Judges Koroma and Parra-Aranguren separate opinions and Judge Buergenthal a dissenting opinion.

11.-18. Legality of Use of Force (Yugoslavia v. Belgium) (Yugoslavia v. Canada) (Yugoslavia v. France) (Yugoslavia v. Germany) (Yugoslavia v. Italy) (Yugoslavia v. Netherlands) (Yugoslavia v. Portugal) and (Yugoslavia v. United Kingdom)

282. On 29 April 1999 the Federal Republic of Yugoslavia filed in the Registry of the Court Applications instituting proceedings against Belgium, Canada, France, Germany, Italy, Netherlands, Portugal, Spain, United Kingdom and United States of America "for violation of the obligation not to use force".

283. In those Applications Yugoslavia defined the subject of the dispute as follows:

> "The subject-matter of the dispute are acts of the [Respondent State concerned] by which it has violated its international obligation banning the use of force against another State, the obligation not to intervene in the internal affairs of another State, the obligation not to violate the sovereignty of another State, the obligation to protect the civilian population and civilian objects in wartime, the obligation to protect the environment, the obligation relating to free navigation on international rivers, the obligation regarding fundamental human rights and freedoms, the obligation not to use prohibited weapons, the obligation not to deliberately inflict conditions of life calculated to cause the physical destruction of a national group";

284. As a basis for the jurisdiction of the Court, Yugoslavia referred, in the cases against Belgium, Canada, Netherlands, Portugal, Spain and the United Kingdom, to Article 36, paragraph 2, of the Statute of the Court and to Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948 (hereinafter called the "Genocide Convention"); and, in the cases against France, Germany, Italy and the United States, to Article IX of the Genocide Convention and to Article 38, paragraph 5, of the Rules of Court.

285. In each of the cases Yugoslavia requested the International Court of Justice to adjudge and declare that:

"— by taking part in the bombing of the territory of the Federal Republic of Yugoslavia, the [Respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use force against another State;

— by taking part in the training, arming, financing, equipping and supplying terrorist groups, i.e. the so-called 'Kosovo Liberation Army', the [Respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to intervene in the affairs of another State;

— by taking part in attacks on civilian targets, the [Respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation to spare the civilian population, civilians and civilian objects;

— by taking part in destroying or damaging monasteries, monuments of culture, the [Respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to commit any act of hostility directed against historical monuments, works of art or places of worship which constitute cultural or spiritual heritage of people;

— by taking part in the use of cluster bombs, the [Respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use prohibited weapons, i.e. weapons calculated to cause unnecessary suffering;

— by taking part in the bombing of oil refineries and chemical plants, the [Respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to cause considerable environmental damage;

— by taking part in the use of weapons containing depleted uranium, the [Respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to use prohibited weapons and not to cause far-reaching health and environmental damage;

— by taking part in killing civilians, destroying enterprises, communications, health and cultural institutions, the [Respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation to respect the right to life, the right to work, the right to information, the right to health care as well as other basic human rights;

— by taking part in destroying bridges on international rivers, the [Respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation to respect freedom of navigation on international rivers;

— by taking part in activities listed above, and in particular by causing enormous environmental damage and by using depleted uranium, the [Respondent State concerned] has acted against the Federal Republic of Yugoslavia in breach of its obligation not to deliberately inflict on a national group conditions of life calculated to bring about its physical destruction, in whole or in part;

— the [Respondent State concerned] is responsible for the violation of the above international obligations;

— the [Respondent State concerned] is obliged to stop immediately the violation of the above obligations vis-à-vis the Federal Republic of Yugoslavia;

— the [Respondent State concerned] is obliged to provide compensation for the damage done to the Federal Republic of Yugoslavia and to its citizens and juridical persons";

286. On the same day, 29 April 1999, Yugoslavia also submitted, in each of the cases, a request for the indication of provisional measures. It requested the Court to indicate the following measure:

"The [Respondent State concerned] shall cease immediately its acts of use of force and shall refrain from any act of threat or use of force against the Federal Republic of Yugoslavia".

287. Yugoslavia chose Mr. Milenko Kreća, Belgium Mr. Patrick Duinslaeger, Canada Mr. Marc Lalonde, Italy Mr. Giorgio Gaja, and Spain Mr. Santiago Torres Bernárdez to sit as judges ad hoc in the case.

288. Hearings on the requests for the indication of provisional measures were held between 10 and 12 May 1999.

289. At a public sitting held on 2 June 1999, the Vice-President of the Court, Acting President, read the Orders, by which, in the cases (Yugoslavia v. Belgium), (Yugoslavia v. Canada), (Yugoslavia v. France), (Yugoslavia v. Germany), (Yugoslavia v. Italy), (Yugoslavia v. Netherlands), (Yugoslavia v. Portugal) and (Yugoslavia v. United Kingdom), the Court rejected the requests for the indication of provisional measures submitted by that State and reserved the subsequent procedure for further decision. In the cases of (Yugoslavia v. Spain) and (Yugoslavia v. United States of America), the Court — having found that it manifestly lacked jurisdiction to entertain Yugoslavia's Application; that it could not therefore indicate any provisional measure whatsoever in order to protect the rights invoked therein; and that, within a system of consensual jurisdiction, to maintain on the General List a case upon which it appeared certain that the Court would not be able to adjudicate on the merits would most assuredly not contribute to the sound administration of justice — rejected Yugoslavia's requests for the indication of provisional measures and ordered that those cases be removed from the List.

290. In each of the cases (Yugoslavia v. Belgium), (Yugoslavia v. Canada), (Yugoslavia v. Netherlands) and (Yugoslavia v. Portugal), Judge Koroma appended a declaration to the Order of the Court; Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions; and Vice-President Weeramantry, Acting President, Judges Shi and Vereshchetin and Judge ad hoc Kreća appended dissenting opinions.

291. In each of the cases (Yugoslavia v. France), (Yugoslavia v. Germany) and (Yugoslavia v. Italy), Vice-President Weeramantry, Acting President and Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court; Judges Oda and Parra-Aranguren appended separate opinions; and Judge ad hoc Kreća appended a dissenting opinion.

292. In the case (Yugoslavia v. Spain), Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court; and Judges Oda, Higgins, Parra-Aranguren and Kooijmans and Judge ad hoc Kreća appended separate opinions.

293. In the case (Yugoslavia v. United Kingdom), Vice-President Weeramantry, Acting President, and Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court; Judges Oda, Higgins, Parra-Aranguren and Kooijmans appended separate opinions; and Judge ad hoc Kreća appended a dissenting opinion.

294. In the case Yugoslavia v. United States of America), Judges Shi, Koroma and Vereshchetin appended declarations to the Order of the Court; Judges Oda and Parra-Aranguren appended separate opinions; and Judge ad hoc Kreća appended a dissenting opinion.

295. By Orders of 30 June 1999 the Court, having ascertained the views of the Parties, fixed the time-limits for the filing of the written pleadings in each of the eight cases maintained on the List: 5 January 2000 for the Memorial of Yugoslavia and 5 July 2000 for the Counter-Memorial of the Respondent State concerned. The Memorial of Yugoslavia in each of the eight cases was filed within the prescribed time-limit.

296. On 5 July 2000, within the time-limit for the filing of its Counter-Memorial, each of the Respondent States in the eight cases maintained on the Court's List (Belgium, Canada, France, Germany, Italy, Netherlands, Portugal and United Kingdom) raised certain preliminary objections of lack of jurisdiction and inadmissibility.

297. By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

298. By Orders of 8 September 2000, the Vice-President of the Court, Acting President, taking account of the views of the Parties and the special circumstances of the cases, fixed 5 April 2001 as the time-limit for the filing, in each of the cases, of a written statement by Yugoslavia on the preliminary objections raised by the Respondent State concerned.

299. By Orders of 21 February 2001, the Court, in each of the cases, taking account of the agreement of the Parties and of the circumstances of the case, extended that time-limit to 5 April 2002.

19.-21. Armed activities on the territory of the Congo (Democratic Republic of the Congo v. Burundi) (Democratic Republic of the Congo v. Uganda) and (Democratic Republic of the Congo v. Rwanda)

300. On 23 June 1999 the Democratic Republic of the Congo (DRC) filed in the Registry of the Court Applications instituting proceedings against Burundi, Uganda and Rwanda respectively for "acts of armed aggression perpetrated in flagrant violation of the United Nations Charter and of the Charter of the OAU".

301. In its Applications, the DRC contended that "such armed aggression . . . ha[d] involved inter alia violation of the sovereignty and territorial integrity of the [DRC], violations of international humanitarian law and massive human rights violations". By instituting proceedings, the DRC was seeking "to secure the cessation of the acts of aggression directed against it, which constitute a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular"; it was also seeking reparation for acts of intentional destruction and looting, and the restitution of national property and resources appropriated for the benefit of the respective Respondent States.

302. In the cases (Democratic Republic of the Congo v. Burundi) and (Democratic Republic of the Congo v. Rwanda), the DRC invoked as bases for the jurisdiction of the Court Article 36, paragraph 1, of the Statute of the Court, the New York Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 and the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 23 September 1971, and also Article 38, paragraph 5, of the Rules of Court. This Article contemplates the situation where a State files an application against another State which has not accepted the jurisdiction of the Court. Article 36, paragraph 1, of the Statute, provides that "the jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force".

303. In the case (Democratic Republic of the Congo v. Uganda), the DRC invoked as a basis for the jurisdiction of the Court the declarations by which both States have accepted the compulsory jurisdiction of the Court in relation to any other State accepting the same obligation (Article 36, paragraph 2, of the Statute of the Court).

304. The Democratic Republic of the Congo requested the Court to:

"Adjudge and declare that:

(a) [The Respondent State concerned] is guilty of an act of aggression within the meaning of Article 1 of resolution 3314 of the General Assembly of the United Nations of 14 December 1974 and of the jurisprudence of the International Court of Justice, contrary to Article 2, paragraph 4, of the United Nations Charter;

(b) further, [the Respondent State concerned] is committing repeated violations of the Geneva Conventions of 1949 and their Additional Protocols of 1977, in flagrant disregard of the elementary rules of international humanitarian law in conflict zones, and is also guilty of massive human rights violations in defiance of the most basic customary law;

(c) more specifically, by taking forcible possession of the Inga hydroelectric dam, and deliberately and regularly causing massive electrical power cuts, in violation of the provisions of Article 56 of the Additional Protocol of 1977, [the Respondent State concerned] has rendered itself responsible for very heavy losses of life in the city of Kinshasa (5 million inhabitants) and the surrounding area;

(d) by shooting down, on 9 October 1998 at Kindu, a Boeing 727 the property of Congo Airlines, thereby causing the death of 40 civilians, [the Respondent State concerned] has also violated the Convention on International Civil Aviation signed at Chicago on 7 December 1944, the Hague Convention of 16 December 1970 for the Suppression of Unlawful Seizure of Aircraft and the Montreal Convention of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

Consequently, and pursuant to the aforementioned international legal obligations, to adjudge and declare that:

1. all armed forces [of the Respondent State concerned] participating in acts of aggression shall forthwith vacate the territory of the Democratic Republic of the Congo;

2. [the Respondent State concerned] shall secure the immediate and unconditional withdrawal from Congolese territory of its nationals, both natural and legal persons

3. the Democratic Republic of the Congo is entitled to compensation from [the Respondent State concerned] in respect of all acts of looting, destruction, removal of property and persons and other unlawful acts attributable to [the Respondent State concerned], in respect of which the Democratic Republic of the Congo reserves the right to determine at a later date the precise amount of the damage suffered, in addition to its claim for the restitution of all property removed."

305. In each of the two cases concerning Armed activities on the territory of the Congo (Democratic Republic of the Congo v. Burundi) and (Democratic Republic of the Congo v. Rwanda), the Court, by an Order of 21 October 1999, taking into account the agreement of the Parties as expressed at a meeting between the President and the Agents of the Parties held on 19 October 1999, decided that the written proceedings should first address the questions of the jurisdiction of the Court to entertain the Application and of its admissibility and fixed 21 April 2000 as the time-limit for the filing of a Memorial on those questions by Burundi and Rwanda respectively and 23 October 2000 for the filing of a Counter-Memorial by the DRC. The Memorials of Burundi and Rwanda were filed within the prescribed time-limit.

306. In those two cases the Democratic Republic of the Congo chose Mr. Joe Verhoeven to sit as judge ad hoc. Burundi chose Mr. Jean J. A. Salmon and Rwanda Mr. John Dugard to sit as judges ad hoc.

307. By an Order of 19 October 2000 in each of those cases the President of the Court, at the request of the Congo and taking account of the agreement of the Parties, extended to 23 January 2001 the time-limit for the filing of the Counter-Memorial of the DRC.

308. By letters dated 15 January 2001 the Democratic Republic of the Congo notified the Court in each of the two cases that it wished to discontinue the proceedings and stated that it "reserve[d] the right to invoke subsequently new grounds of jurisdiction of the Court".

309. After, in each of the two cases, the Respondent Party had informed the Court that it concurred in the DRC's discontinuance, the President of the Court, in Orders of 30 January 2001, placed the discontinuance by the DRC on record and ordered the removal of the case from the List.

310. In the case concerning Armed activities on the territory of the Congo (Democratic Republic of the Congo v. Uganda), the Court, taking into account the agreement of the Parties as expressed at a meeting held with them by the President of the Court on 19 October 1999, fixed, by an Order of 21 October 1999, 21 July 2000 as the time-limit for the filing of a Memorial by the Congo and 21 April 2001 for the filing of a Counter-Memorial by Uganda. The Memorial of the DRC was filed within the prescribed time-limits.

311. On 19 June 2000 the DRC, in the same case against Uganda, filed a request for the indication of provisional measures, stating that "since 5 June last, the resumption of fighting between the armed troops of ... Uganda and another foreign army has caused considerable damage to the

Congo and to its population" while "these tactics have been unanimously condemned, in particular by the United Nations Security Council".

312. In the request the DRC maintained that "despite promises and declarations of principle . . . Uganda has pursued its policy of aggression, brutal armed attacks of oppression and looting" and that "this is moreover the third Kisangani war, coming after those of August 1999 and May 2000 and having been instigated by the Republic of Uganda . . .". The Congo observed that these acts "represent just one further episode constituting evidence of the military and paramilitary intervention, and of occupation, commenced by the Republic of Uganda in August 1998". It further stated that "each passing day causes to the Democratic Republic of the Congo and its inhabitants grave and irreparable prejudice" and that "it is urgent that the rights of the Democratic Republic of the Congo be safeguarded".

313. The Democratic Republic of the Congo requested the Court to indicate the following provisional measures:

> "(1) the Government of the Republic of Uganda must order its army to withdraw immediately and completely from Kisangani;
>
> (2) the Government of the Republic of Uganda must order its army to cease forthwith all fighting or military activity on the territory of the Democratic Republic of the Congo and to withdraw immediately and completely from that territory, and must forthwith desist from providing any direct or indirect support to any State, group, organization, movement or individual engaged or planning to engage in military activities on the territory of the Democratic Republic of the Congo;
>
> (3) the Government of the Republic of Uganda must take all measures in its power to ensure that any units, forces or agents are or could be under its authority, or which enjoy, or could enjoy its support, together with organizations or persons which could be under its control, authority or influence, desist forthwith from committing or inciting the commission of war crimes or any other oppressive or unlawful act against all persons on the territory of the Democratic Republic of the Congo;
>
> (4) the Government of the Republic of Uganda must forthwith discontinue any act having the aim or effect of disrupting, interfering with or hampering actions intended to give the population of the occupied zones the benefit of their fundamental human rights, and in particular their rights to health and education;
>
> (5) the Government of the Republic of Uganda must cease forthwith all illegal exploitation of the natural resources of the Democratic Republic of the Congo and any illegal transfer of assets, equipment or persons to its territory;
>
> (6) the Government of the Republic of Uganda must henceforth respect in full the right of the Democratic Republic of the Congo to sovereignty, political independence and territorial integrity, and the fundamental rights and freedoms of all persons on the territory of the Democratic Republic of the Congo."

314. By letters of the same date, 19 June 2000, the President of the Court, Judge Gilbert Guillaume, acting in conformity with Article 74, paragraph 4, of the Rules of Court, drew "the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

315. Public sittings to hear the oral observations of the Parties on the request for the indication of provisional measures were held on 26 and 28 June 2000.

316. At a public sitting, held on 1 July 2000, the Court rendered its Order on the request for provisional measures made by the DRC. The operative paragraph reads as follows:

"For these reasons,

THE COURT,

Indicates, pending a decision in the proceedings instituted by the Democratic Republic of the Congo against the Republic of Uganda, the following provisional measures:

(1) Unanimously,

Both Parties must, forthwith, prevent and refrain from any action, and in particular any armed action, which might prejudice the rights of the other Party in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before the Court or make it more difficult to resolve;

(2) Unanimously,

Both Parties must, forthwith, take all measures necessary to comply with all of their obligations under international law, in particular those under the United Nations Charter and the Charter of the Organization of African Unity, and with United Nations Security Council resolution 1304 (2000) of 16 June 2000;

(3) Unanimously,

Both Parties must, forthwith, take all measures necessary to ensure full respect within the zone of conflict for fundamental human rights and for the applicable provisions of humanitarian law."

317. Judges Oda and Koroma appended declarations to the Order of the Court.

318. The Democratic Republic of the Congo chose Mr. Joe Verhoeven and Uganda Mr. James L. Kateka to sit as judges ad hoc.

319. Within the time-limit of 21 April 2001 fixed by the Court's Order of 21 October 1999, Uganda filed its Counter-Memorial. The Counter-Memorial contained counter-claims.

22. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Yugoslavia)

320. On 2 July 1999 the Republic of Croatia filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Yugoslavia "for violations of the Convention on the Prevention and Punishment of the Crime of Genocide", alleged to have been committed between 1991 and 1995.

321. In its Application, Croatia contended that "by directly controlling the activity of its armed forces, intelligence agents, and various paramilitary detachments, on the territory of . . . Croatia, in the Knin region, eastern and western Slovenia, and Dalmatia, [Yugoslavia] is liable [for] the 'ethnic cleansing' of Croatian citizens from these areas . . . and is required to provide reparation for the resulting damage". Croatia went on to state that "in addition, by directing, encouraging, and urging Croatian citizens of Serb ethnicity in the Knin region to evacuate the area in 1995, as . . . Croatia reasserted its legitimate governmental authority . . . [Yugoslavia] engaged in conduct amounting to a second round of 'ethnic cleansing'".

322. The Application referred to Article 36, paragraph 1 of the Court's Statute and to Article IX of the Genocide Convention as the bases for the jurisdiction of the Court.

323. Croatia requested the Court to adjudge and declare:

"(a) That the Federal Republic of Yugoslavia has breached its legal obligations toward the People and Republic of Croatia under Articles I, II(a), II(b), II(c), II(d), III(a), III(b), III(c), III(d), III(e), IV and V of the Genocide Convention;

(b) That the Federal Republic of Yugoslavia has an obligation to pay to the Republic of Croatia, in its own right and as parens patriae for its citizens, reparations for damages to persons and property, as well as to the Croatian economy and environment caused by the foregoing violations of international law in a sum to

be determined by the Court. The Republic of Croatia reserves the right to introduce to the Court at a future date a precise evaluation of the damages caused by the Federal Republic of Yugoslavia."

324. By an Order of 14 September 1999 the Court, taking account of the agreement of the Parties as expressed at a meeting between the President and the Agents of the Parties, held on 13 September 1999, fixed 14 March 2000 as the time-limit for the filing of the Memorial of Croatia and 14 September 2000 for the filing of the Counter-Memorial of Yugoslavia.

325. By an Order of 10 March 2000 (I.C.J. Reports 2000, p. 3), the President of the Court, at the request of Croatia and taking into account the views expressed by Yugoslavia, extended the above time-limits to 14 September 2000 for the Memorial and 14 September 2001 for the Counter-Memorial.

326. By an Order of 27 June 2000 the Court, at the request of Croatia and taking into account the views expressed by Yugoslavia, extended again the time-limits, to 14 March 2001 for the Memorial of Croatia and to 16 September 2002 for the Counter-Memorial of Yugoslavia. The Memorial of Croatia was filed within the time-limit thus extended.

327. Croatia chose Mr. Budislav Vukas to sit as judge ad hoc.

23. Maritime Delimitation between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v. Honduras)

328. On 8 December 1999 the Republic of Nicaragua filed in the Registry of the Court an Application instituting proceedings against the Republic of Honduras in respect of a dispute concerning the delimitation of the maritime zones appertaining to each of those States in the Caribbean Sea.

329. In its Application, Nicaragua stated inter alia that it had for decades "maintained the position that its maritime Caribbean border with Honduras has not been determined", while Honduras' position was said to be that "there in fact exists a delimitation line that runs straight easterly on the parallel of latitude from the point fixed in [an Arbitral Award of 23 December 1906 made by the King of Spain concerning the land boundary between Nicaragua and Honduras, which was found valid and binding by the International Court of Justice on 18 November 1960] on the mouth of the Coco river". According to Nicaragua, "the position adopted by Honduras . . . has brought repeated confrontations and mutual capture of vessels of both nations in and around the general border area". Nicaragua further stated that "diplomatic negotiations have failed".

330. Nicaragua therefore requested the Court "to determine the course of the single maritime boundary between areas of territorial sea, continental shelf and exclusive economic zone appertaining respectively to Nicaragua and Honduras, in accordance with equitable principles and relevant circumstances recognized by general international law as applicable to such a delimitation of a single maritime boundary".

331. As a basis for the Court's jurisdiction, Nicaragua invoked Article XXXI of the American Treaty on Pacific Settlement (officially known as the "Pact of Bogotá"), signed on 30 April 1948, to which both Nicaragua and Honduras are parties, as well as the declarations under Article 36, paragraph 2, of the Statute of the Court, by which both States have accepted the compulsory jurisdiction of the Court.

332. By an Order of 21 March 2000 (I.C.J. Reports 2000, p. 6), the Court, taking into account the agreement of the Parties, fixed 21 March 2001 as the time-limit for the filing of the Memorial of Nicaragua and 21 March 2002 for the filing of the Counter-Memorial by Honduras. The Memorial of Nicaragua was filed within the prescribed time-limit.

333. Copies of the pleadings and documents annexed have been made available to the Government of Colombia, at its request.

24. Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)

334. On 17 October 2000, the Democratic Republic of the Congo (DRC) filed in the Registry of the Court an Application instituting proceedings against Belgium concerning an international arrest warrant issued on 11 April 2000 by a Belgian examining judge against the DRC's acting Minister

for Foreign Affairs, Mr. Yerodia Abdoulaye Ndombasi, seeking his detention and subsequent extradition to Belgium for alleged crimes constituting "grave violations of international humanitarian law". The international arrest warrant was transmitted to all States, including the DRC, which received it on 12 July 2000.

335. In its Application, the DRC notes that the arrest warrant, issued by Mr. Vandermeersch, examining judge at the Brussels Tribunal de première instance, characterizes the alleged facts as "crimes of international law committed by action or omission against persons or property protected by the Geneva Conventions of 12 August 1949 and the Additional Protocols I and II to those Conventions, crimes against humanity" and cites in support of this proposition provisions of the allegedly applicable Belgian Law of 16 June 1993 as amended by the Law of 10 February 1999 pertaining to the punishment of grave violations of international humanitarian law". The Democratic Republic of the Congo states that, according to the terms of the warrant, the examining judge affirms his competence to deal with facts allegedly committed on the territory of the DRC by a national of that State, without it being alleged that the victims are of Belgian nationality, or that the facts constitute violations of the security or dignity of the Kingdom of Belgium. It further observes that Article 5 of the above-mentioned Belgian Law prescribes that "the immunity conferred by a person's official capacity does not prevent application of this Law" and that Article 7 of the same Law establishes the universal applicability of the Law and the universal jurisdiction of Belgian courts in relation to "grave violations of international humanitarian law", which jurisdiction is not subject to the presence of the accused on Belgian territory.

336. The DRC maintains that Article 7 of the Belgian Law and the arrest warrant issued on the basis of that Article constitute "a violation of the principle whereby a State may not exercise its authority on the territory of another State and the principle of sovereign equality among all members of the United Nations", as declared in Article 2, paragraph 1, of the Charter. It also maintains that Article 5 and the arrest warrant contravene international law, in so far as they claim to derogate from the diplomatic immunity of the Minister for Foreign Affairs of a sovereign State, "deriving from Article 41, paragraph 2, of the Vienna Convention of 18 April 1961 on Diplomatic Relations".

337. Accordingly, the DRC asks the Court to declare that Belgium must annul the international arrest warrant issued against Mr. Abdoulaye Yerodia Ndombasi.

338. As a basis for the Court's jurisdiction, the DRC invokes the fact that "Belgium has accepted the Court's jurisdiction and [that], to the extent necessary, the present Application signifies acceptance of that jurisdiction by the Democratic Republic of the Congo".

339. The Democratic Republic of the Congo also filed a request for the indication of a provisional measure seeking "to have the arrest warrant withdrawn forthwith". In its request, the DRC maintains that "the two conditions that are essential for the indication of a provisional measure under the jurisprudence of the Court — urgency and the existence of irreparable damage — are manifestly present in this case". It stresses inter alia that "the disputed international arrest warrant in effect prevents the [DRC] Minister from departing that State for any other State where his duties may call him and, accordingly, from accomplishing his duties".

340. Hearings on the request for the indication of provisional measures filed by the DRC were held from 20 to 23 November 2000.

341. During those hearings, the Democratic Republic of the Congo inter alia stated the following:

> "the Democratic Republic of the Congo requests the Court to order Belgium to comply with international law; to cease and desist from any conduct which might exacerbate the dispute with the Democratic Republic of the Congo; specifically, to discharge the international arrest warrant issued against Minister Yerodia."

342. Belgium, for its part, made the following submissions:

> "The Kingdom of Belgium asks that it may please the Court to refuse the request for the indication of provisional measures submitted by the Democratic Republic of the Congo in the case concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium) and not indicate the provisional

measures which are the subject of the request by the Democratic Republic of the Congo.

The Kingdom of Belgium asks that it may please the Court to remove from its List the case concerning the Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium) brought by the Democratic Republic of the Congo against Belgium by Application dated 17 October 2000."

343. At a public sitting, held on 8 December 2000, the Court rendered its Order on the request for the indication of provisional measures, the final paragraph of which reads as follows:

" For these reasons,

THE COURT,

(1) Unanimously,

Rejects the request of the Kingdom of Belgium that the case be removed from the List;

(2) By fifteen votes to two,

Finds that the circumstances, as they now present themselves to the Court, are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.

IN FAVOUR: President Guillaume; Vice-President Shi; Judges Oda, Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Koroma, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Al-Khasawneh, Buergenthal; Judge ad hoc Van den Wyngaert;

AGAINST: Judge Rezek; Judge ad hoc Bula-Bula".

344. Judges Oda and Ranjeva appended declarations to the Order of the Court; Judges Koroma and Parra-Aranguren separate opinions; Judge Rezek and Judge ad hoc Bula-Bula dissenting opinions; and Judge ad hoc Van den Wijngaert a declaration.

345. By an Order of 13 December 2000, the President of the Court, taking account of the agreement of the Parties, fixed 15 March 2001 and 31 May 2001 as the time-limits for the filing of the Memorial of the DRC and the Counter-Memorial of Belgium respectively.

346. By an Order of 14 March 2001, the Court, at the request of the DCR and taking account of the reasons given by it and of the agreement of the Parties, extended those time-limits to 17 April 2001 and 31 July 2001 respectively.

347. By an Order of 12 April 2001, the President of the Court, at the request of the DRC and taking account of the reasons given by it and of the agreement of the Parties, further extended those time-limits to 17 May 2001 for the DRC's Memorial and 17 September 2001 for Belgium's Counter-Memorial. The Memorial of the DRC was filed within the time-limit thus extended.

348. By an Order of 27 June 2001, the Court rejected a request by Belgium seeking to derogate from the agreed procedure in the case and extended to 28 September 2001 the time-limit for the filing by the latter of a Counter-Memorial addressing both questions of jurisdiction and admissibility and the merits of the dispute. It further fixed 15 October 2001 as the date for the opening of the hearings.

25. Application for Revision of the Judgment of 11 July 1996 in the Case concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections (Yugoslavia v. Bosnia and Herzegovina)

349. On 24 April 2001 the Federal Republic of Yugoslavia (FRY) filed in the Registry of the Court an Application for revision of the Judgment delivered by the Court on 11 July 1996 in the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Preliminary Objections.

350. In that Judgment (see above, para.186), the Court rejected the preliminary objections raised by Yugoslavia and found that it had jurisdiction to deal with the case on the basis of Article IX of the Convention on the Prevention and Punishment of the Crime of Genocide, dismissing the

additional bases of jurisdiction invoked by Bosnia and Herzegovina. The Court further found that the Application filed by Bosnia and Herzegovina was admissible.

351. Yugoslavia contends that a revision of the Judgment is necessary now that it has become clear that, before 1 November 2000 (the date on which it was admitted as a new Member of the United Nations), Yugoslavia did not continue the international legal and political personality of the Socialist Federal Republic of Yugoslavia, was not a Member of the United Nations, was not a State party to the Statute of the Court, and was not a State party to the Genocide Convention (which is only open to United Nations Member States or to non-Member States to which an invitation to sign or accede has been addressed by the General Assembly).

352. Yugoslavia bases its Application for revision on Article 61 of the Statute of the Court, which provides in its first paragraph that "an application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence".

353. Yugoslavia states that its admission to the United Nations as a new Member on 1 November 2000 constitutes "a new fact", which was "obviously unknown to both the Court and to [Yugoslavia] at the time of the 1996 Judgment". It adds that "since membership in the United Nations, combined with the status of a party to the Statute [of the Court] and to the Genocide Convention represent the only basis on which jurisdiction over the FRY was assumed, and could be assumed, the disappearance of this assumption . . . [is] clearly of such a nature [as] to be a decisive factor".

354. Yugoslavia asserts that no alternative basis for the Court's jurisdiction existed or could have existed in the case. Yugoslavia further notes that, while on 8 March 2001 it submitted to the United Nations Secretary-General a notification seeking accession to the Genocide Convention, that instrument includes a reservation to Article IX. Moreover, according to Yugoslavia, "accession has no retroactive effect. Even if it had [retroactive effect] this cannot possibly encompass the compromissory clause in Article IX of the Genocide Convention, because the FRY never accepted Article IX and the FRY's accession [to the Convention] did not encompass Article IX."

355. For all these reasons, Yugoslavia requested the Court to declare that "there is a new fact of such a character as to lay the case open to revision under Article 61 of the Statute of the Court". It further asked the Court to "suspend proceedings regarding the merits of the Case until a decision on this Application is rendered".

26. Certain Property (Liechtenstein v. Germany)

356. On 1 June 2001 Liechtenstein filed in the Registry of the Court an Application instituting proceedings against Germany concerning "decisions of Germany . . . to treat certain property of Liechtenstein nationals as German assets . . . seized for the purposes of reparation or restitution as a consequence of World War II . . . without ensuring any compensation."

357. In the Application, Liechtenstein alleges the following facts. In 1945, Czechoslovakia — during World War II an allied country and a belligerent against Germany — through a series of decrees (the Beneš decrees) seized German and Hungarian property located on its territory. Czechoslovakia applied those decrees not only to German and Hungarian nationals, but also to other persons allegedly of German or Hungarian origin or ethnicity. For this purpose it treated the nationals of Liechtenstein as German nationals. The property of these Liechtenstein nationals seized under these decrees (the "Liechtenstein property") has never been returned to its owners nor has compensation been offered or paid. The application of the Beneš decrees to the Liechtenstein property remained an unresolved issue between Liechtenstein and Czechoslovakia until the dissolution of the latter, and it continues to be an unresolved issue as between Liechtenstein and the Czech Republic, on whose territory the vast majority of Liechtenstein property is located.

358. Liechtenstein further refers to the Convention on the Settlement of Matters arising out of the War and the Occupation, signed at Bonn on 26 May 1952 ("the Settlement Convention"). The Application states that by Article 3, paragraph 1, of this Convention, Germany agreed, inter alia, that it would "in the future raise no objections against the measures which have been, or will be, carried out with regard to German external assets or other property, seized for the purpose of

reparation or restitution, or as a result of the state of war". The Application alleges that the Settlement Convention was only concerned with German property so-called, i.e., property of the German State or of its nationals, and that under international law, having regard to Liechtenstein's neutrality and the absence of whatsoever links between Liechtenstein and the conduct of the war by Germany, any Liechtenstein property that may have been affected by measures of an Allied power could not be considered as "seized for the purpose of reparation or restitution, or as a result of the state of war". Liechtenstein maintains that subsequent to the conclusion of the Settlement Convention, it was accordingly understood between Germany and itself that the Liechtenstein property did not fall within the regime of the Convention, and that, as a corollary, Germany maintained the position that property falling outside the scope of the Convention was unlawfully seized, and that the German courts were not barred from considering claims affecting such property.

359. Liechtenstein alleges that in 1998 the position of the Federal Republic of Germany changed however, as a result of a decision of the Federal Constitutional Court of 28 January 1998. The decision concerned a painting which was among the Liechtenstein property seized in 1945, and which was in possession of the Historic Monument Offices in Brno, Czech Republic, a State entity of the Czech Republic. It was brought to Germany for the purposes of an exhibition, and thus came into possession of the Municipality of Cologne. At the request of the Reigning Prince, Prince Hans Adam II, acting in his private capacity, the painting was attached pending determination of the claim by the German courts. Eventually, however, the claim failed. The Federal Constitutional Court held that the German courts were required by Article 3 of the Settlement Convention to treat the painting as German property in the sense of the Convention. Accordingly the painting was released and returned to the Czech Republic. The Application of Liechtenstein claims that the decision of the Federal Constitutional Court is unappealable, and is attributable to Germany as a matter of international law and is binding upon Germany.

360. Liechtenstein states that it protested to Germany that the latter was treating as German assets which belonged to nationals of Liechtenstein, to their detriment and the detriment of Liechtenstein itself. It states further that Germany rejected this protest and that in subsequent consultations it became clear that Germany now adheres to the position that Liechtenstein assets as a whole were "seized for the purpose of reparation or restitution, or as a result of the state of war" within the meaning of the Convention, even though the decision of the Federal Constitutional Court only concerned a single item. According to the Application of Liechtenstein, in taking this position Germany remains faithful to the decision of its highest court in the matter; but at the same time it ignores and undermines the rights of Liechtenstein and its nationals in respect of the Liechtenstein property. Liechtenstein claims that:

> "(a) by its conduct with respect to the Liechtenstein property, in and since 1998, Germany failed to respect the rights of Liechtenstein with respect to that property;
>
> (b) by its failure to make compensation for losses suffered by Liechtenstein and/or its nationals, Germany is in breach of the rules of international law".

361. Liechtenstein accordingly requests the Court "to adjudge and declare that Germany has incurred international legal responsibility and is bound to make appropriate reparation to Liechtenstein for the damage and prejudice suffered". Liechtenstein further requests "that the nature and amount of such reparation should, in the absence of agreement between the parties, be assessed and determined by the Court, if necessary, in a separate phase of the proceedings".

362. As a basis for the Court's jurisdiction, Liechtenstein invokes Article 1 of the European Convention for the Peaceful Settlement of Disputes, signed at Strasbourg on 29 April 1957.

363. By an Order of 28 June 2001, the Court, taking account of the agreement of the Parties, fixed 28 March 2002 as the time-limit for the filing of a Memorial by Liechtenstein and 27 December 2002 as the time-limit for the filing of a Counter-Memorial by Germany.

B. Amendment of the Rules of Court

364. On 5 December 2000 the Court decided to amend two Articles of its 1978 Rules. Both concern incidental proceedings. They are Article 79 relating to preliminary objections (generally

raised by the respondent in order to challenge the Court's jurisdiction or the admissibility of the application) and Article 80 relating to counter-claims (by which the respondent seeks to obtain something other than the mere dismissal of the applicant's submissions).

365. The amendments (reproduced below) aim at shortening the duration of these proceedings, the proliferation of which has encumbered many cases, at clarifying the rules in force and at adapting them to reflect more closely the practice developed by the Court. They came into force on 1 February 2001. The Rules adopted on 14 April 1978 will continue to apply to all cases submitted to the Court prior to 1 February 2001, and to all phases of those cases.

366. The Court has also modified the Note containing recommendations to the parties that it made public in April 1998 (see Press Release 98/14). This Note is given to the representatives of parties to new cases at their first meeting with the Registrar. The modification (also reproduced below) should expedite proceedings on preliminary objections even more.

367. Those various measures, which have been notified to the 190 States party to the Statute of the Court (189 member States of the United Nations and Switzerland), are part of an ongoing effort by the Court to adapt to the significant increase in its activity in the last few years.

368. Already in 1998, the Court announced a change in its working methods, stating that it would start considering some cases "back to back" and that, in preliminary phases of the proceedings on the merits (e.g., objections to its jurisdiction or the admissibility of an application), it would, on an experimental basis and where it considered it necessary, deliberate without written Notes (normally prepared by the judges after the conclusion of the oral proceedings for use during the deliberations). It added that it would seek increased co-operation from the parties in the functioning of justice, by requesting them inter alia to decrease the number of pleadings exchanged, the volume of the annexes to the pleadings and the length of the oral arguments. This policy has already proved effective in the most recent cases.

369. Amendments to Articles 79 and 80 of the Rules of Court

The modifications are shown in bold italics.

ARTICLE 79 (PRELIMINARY OBJECTIONS)

— Paragraph 1 of this Article has been amended to shorten the period of time within which preliminary objections can be raised. While until now the respondent could file such objections "within the time-limit fixed for the delivery of [its] Counter-Memorial", it will now have to do so "as soon as possible, and not later than three months after the delivery of the Memorial". The revised paragraph 1 reads as follows:

> "1. Any objection by the respondent to the jurisdiction of the Court or to the admissibility of the application, or other objection the decision upon which is requested before any further proceedings on the merits, shall be made in writing **as soon as possible, and not later than three months after the delivery of the Memorial**. Any such objection made by a party other than the respondent shall be filed within the time-limit fixed for the delivery of that party's first pleading."

— Two new paragraphs have been added, reading as follows:

> **"2. Notwithstanding paragraph 1 above, following the submission of the application and after the President has met and consulted with the parties, the Court may decide that any questions of jurisdiction and admissibility shall be determined separately.**
>
> **3. Where the Court so decides, the parties shall submit any pleadings as to jurisdiction and admissibility within the time-limits fixed by the Court and in the order determined by it, notwithstanding Article 45, paragraph 1."**

— Former paragraphs 2 to 8 of Article 79 have not been amended, but have been renumbered as paragraphs 4 to 10.

ARTICLE 80 (COUNTER-CLAIMS)

The Court clarified the conditions governing the submission and consideration of counter-claims. Article 80 now reads as follows:

1. **"The Court may entertain a counter-claim only if it comes within the jurisdiction of the Court and is directly connected with the subject-matter of the claim of the other party."**

2. "A counter-claim shall be made in the Counter-Memorial and shall appear as part of **the submissions contained therein. The right of the other party to present its views in writing on the counter-claim, in an additional pleading, shall be preserved, irrespective of any decision of the Court, in accordance with Article 45, paragraph 2, of these Rules, concerning the filing of further written pleadings."**

3. **"Where an objection is raised concerning the application of paragraph 1 or whenever the Court deems necessary, the Court shall take its decision thereon after hearing the parties."**

370. Modification of the Note containing recommendations to the parties

— A new subparagraph has been added to paragraph 3 of the Note. It reads as follows:

"E. With the aim of accelerating proceedings on preliminary objections made by one party under Article 79, paragraph 1, of the Rules of Court, the time-limit for the presentation by the other party of a written statement of its observations and submissions under Article 79, paragraph 5, should generally not exceed four months."

— The last sentence of former subparagraph E of paragraph 3, which has now become subparagraph F, has been modified as follows:

"These provisions must of course be complied with, especially when objections of lack of jurisdiction or of inadmissibility are being considered. **In those cases, oral proceedings must be limited to statements on the objections** and **observe** the requisite degree of brevity."

VI. VISITS

A. Official visits of Heads of State

Visit of the President of the Federative Republic of Brazil

371. On 9 October 2000 H. E. Mr. Fernando Henrique Cardoso, President of the Federative Republic of Brazil, was received by the Court.

372. At a solemn sitting organized in the Great Hall of Justice and attended by the diplomatic corps and representatives of the Dutch authorities, the Permanent Court of Arbitration, the Iran-United States Claims Tribunal, the International Criminal Tribunal for the former Yugoslavia and other international institutions located in The Hague, the President of the Court made a speech, to which the President of the Federative Republic of Brazil replied.

373. President Guillaume stated that Brazil played "an important role in the construction of an international community founded on mutual respect, desire for peace and the rule of law". It was, moreover, to a Brazilian delegate, Raul Fernandes, that the concept of the optional compulsory jurisdiction mechanism was owed. First adopted in 1922 for the Permanent Court of International Justice (the predecessor of the International Court of Justice under the League of Nations), this system was readopted in 1945 for the International Court of Justice. "The 'Fernandes clause' has thus had the merit, not only of having represented a historic step forward for international law, but also of constituting today, for 62 States, one of the bases of the Court's jurisdiction", according to its President. President Guillaume then evoked the work of Rui Barbosa, writer and liberal politician who played a part in the proclamation of the Brazilian Republic in 1889 and was elected Judge of the Permanent Court of International Justice in 1921. He further paid tribute to the four Brazilians (Judges Philadelpho de Azevedo, Levi Carneiro, José Sette-Camara and, currently, Francisco Rezek) who were elected Members of the International Court of Justice.

374. For his part, President Cardoso reaffirmed Brazil's commitment to the International Court of Justice, "not only because of the ideal of the primacy of the law in inter-State relations — which is its raison d'être — but also by virtue of the history of Brazilian participation in that institution". He stressed that the work of the Brazilian jurists who had been Members of the Permanent Court of International Justice and of the International Court of Justice showed "how much Brazilian thought and diplomatic action were rooted in the adherence of [that country] to international law". "For adherence to principles is easy and does not require much effort as long as one sticks to rhetoric; but it is in the practice, in the concrete decisions of foreign policy that it requires a greatness of vision and firm objectives in order to ensure the primacy of the rules of international law", the President of Brazil stated, adding that it was "imperative that unilateralism and recourse to force be supplanted by the strengthening of multilateral institutions providing a source of legality and legitimacy for actions in support of peace and the pacific settlement of disputes".

Visit of the President of the Democratic Socialist Republic of Sri Lanka

375. On 19 March 2001 H.E. Mrs. Chandrika Bandaranaike Kumaratunga, President of the Democratic Socialist Republic of Sri Lanka, was received by the Court.

376. At a solemn sitting organized in the Great Hall of Justice and attended by the diplomatic corps, representatives of the Dutch authorities, the Permanent Court of Arbitration, the International Criminal Tribunal for the former Yugoslavia (ICTY), the Iran-United States Claims Tribunal and other international institutions located in The Hague, the President of the Court made a speech, to which the President of Sri Lanka replied.

377. The texts of the speech delivered by the President of the Court can be found (in English and in French) on the website of the Court. That of the President of Sri Lanka is also available (in French only).

378. After the solemn sitting, Mrs. Kumaratunga, accompanied by her delegation and by Members of the Court, was escorted to the New Wing, situated at the back of the Peace Palace, in order to unveil a bronze plaque, a gift by her country to the International Court of Justice. She made a short statement to explain the theme of the bronze, which depicts two warring chieftains

breaking their weapons at the foot of the Buddha. The President of the Court replied and presented gifts to Mrs. Kumaratunga on behalf of the Court.

B. Other visit

379. During the period under review the President and Members of the Court, the Registrar and officials of the Registry received further a great number of visits of, inter alia, members of government, diplomats, parliamentary delegations, presidents and members of judicial bodies, as well as other high officials.

380. A great number of groups of scholars and academics, lawyers and legal professionals, as well as others, were also received.

VII. Lectures and Publications on the Work of the Court

381. During the period covered by this report, the President of the Court made declarations to the press after the reading of the Judgment in the cases concerning Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. Bahrain) and LaGrand (Germany v. United States of America). In those declarations he explained the Judgments just rendered.

382. The President, in his official capacity, further addressed the International Law Commission during its fifty-second session (second part) in Geneva, on 15 August 2000; the General Assembly, at the 41st plenary meeting of its fifty-fifth session on the occasion of the presentation of the Court's Annual Report, on 26 October 2000; and the Sixth Committee of the General Assembly, on 27 October 2000 on "The Proliferation of International Judicial Bodies: The Outlook for the International Legal Order". He also made a declaration on "The Maintenance of International Peace and Security" to the Security Council, at a private session held on 31 October 2000. He further gave an address on "The Present Situation of the Court and its Problems" to the Committee of Legal Advisers on International Public Law of the Council of Europe, on 6 March 2001.

383. In addition, the President and Members of the Court, the Registrar and Registry officials gave many lectures and presentations on the Court in a wide variety of venues, such as: the Universities of Brasilia and Rio de Janeiro (Brazil); the Universities of Paris I, Bordeaux IV and Aix-en-Provence, the French Senate and Conseil d'Etat, the Académie de Marine and the Société d'histoire diplomatique (France); the "Deutscher Juristentag" in Leipzig (Germany) the University of Antananarivo and the Académie malgache (Madagascar); the University of Leiden and the TMC Asser Institut (Netherlands); the Moscow University of Friendship of Peoples (Russia); the Universities of Bristol, Kent and London, the London School of Economics, the Institute of Advanced Legal Studies (United Kingdom); the International Bar Association; the Columbia and Akron Universities, the University of New York, the Case Western Reserve University and the Federal Bar Association (United States of America), and others.

384. The broad range of topics covered included: the Court — past, present and future; the Court and space law; the Court and the law of the sea; the Court and human rights; the Court's website and the francophone academic world; the Charter of the United Nations and the rule of law; the role of the Court in the peaceful settlement of inter-State disputes; adjudication before the Court (recent developments); the reception of the Court's ruling in national courts; the assertion of jurisdiction by the Court; the Court and colonial law; the Court in a changing world (millennium thoughts from the Bench); the Court and the new developments in the field of international relations; and other related subjects.

385. Articles and studies have been published on the following topics among others: "Incidental proceedings before the Court"; "The International Court of Justice and the Law of the Sea" and "The International Court of Justice as a Potential Forum for the Resolution of Space Law Disputes".

VIII. PUBLICATIONS AND DOCUMENTS OF THE COURT

386. The publications of the Court are distributed to the Governments of all States entitled to appear before the Court, and to the major law libraries of the world. The sale of those publications is organized chiefly by the Sales and Marketing Sections of the United Nations Secretariat, which are in contact with specialized booksellers and distributors throughout the world. A catalogue published in English and French is distributed free of charge. The most recent edition of the catalogue, in both languages, is from June 1999. A revised and updated version of the catalogue is scheduled to appear in the second half of 2001.

387. The publications of the Court consist of several series, three of which are published annually: Reports of Judgments, Advisory Opinions and Orders (published in separate fascicles and as a bound volume), a Bibliography of works and documents relating to the Court, and a Yearbook (in the French version: Annuaire). In the Bibliography series the latest to appear was Bibliography No. 49 (1995). The Yearbook 1998-1999 and Annuaire 1998-1999 were both published in April 2001 and the Yearbook 1999-2000 and Annuaire 1999-2000 in July 2001. In the Reports series the latest bound volume in the process of printing is I.C.J. Reports 1998. The relevant translations now being in hand, the I.C.J. Reports 1999 and I.C.J. Reports 2000, many of the fascicles of which have already appeared, are due to appear late 2001 and early 2002 respectively, thus coming up to date with the printing of the Reports series (the reason for the delay being set out in the relevant section of the 1999-2000 Report). Due to the extent of I.C.J. Reports 1999 (consisting of over 2500 pages), they will appear in two volumes.

388. The Court also publishes instruments instituting proceedings in a case before it: Applications instituting proceedings, Special Agreements, Requests for an Advisory Opinion. In the period under review three Applications have been received (see p. 27), one of which has already been published and the other two in preparation/translation.

389. Before the termination of a case, the Court may, pursuant to Article 53 of the Rules of Court, and after ascertaining the views of the parties, make the pleadings and annexed documents available on request to the Government of any State entitled to appear before the Court. The Court may also, having ascertained the views of the parties, make copies of those pleadings and documents accessible to the public on or after the opening of the oral proceedings. The documentation in each case is published by the Court after the end of the proceedings, under the title Pleadings, Oral Arguments, Documents. The approval of one additional post (total: 3) in the Publications Division and the decision by the Court regarding the content of these publications has seen the continuation of inroads into backlog in this series that had built up due to the ever-increasing workload in the publication of the Court's decisions and the mass of material to be published in the Pleadings series. The following volumes have been published in the reporting period: Fisheries Jurisdiction (Spain v. Canada) (1 vol.); Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (4 vols.); Aerial Incident of 3 July 1988 (Iran v. United States of America) (2 vols.); Passage through the Great Belt (Finland v. Denmark) (1 vol.); Request for Interpretation of the Judgment of 11 June 1998 in the case concerning the Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria), Preliminary Objections (Nigeria v. Cameroon) (1 vol.). Other volumes in the series are in various stages of preparation and composition.

390. In the series Acts and Documents concerning the Organization of the Court, the Court also publishes the instruments governing its functioning and practice. The latest edition, No. 5, was published in 1989 and has been reprinted since that date, most recently in 1996. An offprint of the Rules of Court is available in English and French. Unofficial Arabic, Chinese, German, Russian and Spanish translations of the Rules are also available.

391. The Court distributes press releases, background notes and a handbook in order to keep lawyers, university teachers and students, government officials, the press and the general public informed about its work, functions and jurisdiction. The fourth edition of the handbook, published on the occasion of the Court's 50th Anniversary, appeared in May and July 1997 in French and English respectively. Arabic, Chinese, Russian and Spanish translations of the handbook published on the occasion of the 40th Anniversary of the Court were issued in 1990. Copies of those editions of the handbook in the above-mentioned languages are still available. Arabic, Chinese, Dutch, English, French and Russian editions of a general information booklet on the Court, produced in

co-operation with the Department of Public Information of the United Nations, and intended for the general public, have also recently been published (the Spanish edition is still in preparation).

392. In order to increase and expedite the availability of I.C.J. documents and reduce communication costs, the Court launched a website on the Internet on 25 September 1997, both in English and French. It features the full text of the Court's Judgments, Advisory Opinions and Orders since 1996 (posted on the day they are delivered), summaries of past decisions; most of the relevant documents in pending cases (Application or Special Agreement and written and oral pleadings); unpublished pleadings available in electronic form for cases prior to 1996; press releases; some basic documents (United Nations Charter and the Statute and Rules of the Court); declarations recognizing as compulsory the jurisdiction of the Court and a list of treaties and other agreements relating to that jurisdiction; general information on the Court's history and procedure; and biographies of the judges, as well as a catalogue of publications. The website can be visited at the following address: http://www.icj-cij.org.

393. In addition to the website and in order to offer a better service to individuals and institutions interested in its work, the Court in June 1998 set up three new electronic mail (e-mail) addresses to which comments and inquiries can be sent. They are: webmaster@icj-cij.org (technical comments), information@icj-cij.org (requests for information and documents) and mail@icj-cij.org (other requests and comments). An e-mail notification system for press releases posted on the Court's website was put into operation on 1 March 1999.

IX. FINANCES OF THE COURT

A. Method of covering expenditure

394. Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

395. States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute, a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them.

396. If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations.

397. The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization. Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat), bank interest, etc., are also recorded as United Nations income.

B. Drafting of the budget

398. In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. This preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself.

399. When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations.

C. Financing of appropriations and accounts

400. The Registrar is responsible for executing the budget, with the assistance of the Accountant/ Establishment Officer. The Registrar has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget. He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority. In accordance with a decision of the Court, adopted on the recommendation of the Sub-Committee on Rationalization, the Registrar communicates every four months a statement of accounts to the Court.

401. The accounts of the Court are audited every year by the Board of Auditors appointed by the General Assembly and, periodically, by the auditors of the Secretariat of the United Nations. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations.

D. Budget of the Court for the biennium 2000-2001

402. Following the approval by the General Assembly in December 2000 (see p. 11) of a supplementary budget for the year 2001, the revised budget of the Court for the biennium 2000/2001 is as follows:

Revised Budget for 2000-2001

Programme 181: Members of the Court

181-130: Education Grants	67,300
181-141: Travel to Court sessions/Home Leave	497,300
181-191: Pensions	2,179,500
181-242: Travel on official business	37,600
181-390: Emoluments	4,839,300
	7,621,000

Programme 182: The Registry

182-010: Posts	4,661,200
182-020: Temporary assistance for meetings	1,327,300
182-030: General Temporary Assistance	212,300
182-040: Consultants	36,500
182-050: Overtime	83,700
182-070: Temporary posts for the biennium	535,300
182-100: Common staff costs	1,783,500
182-113: Representation allowance	7,200
182-242: Official travel	43,200
182-450: Hospitality	12,600
	8,702,800

Programme 800: Programme Support

800-330: External Translation	400,000
800-340: Printing	611,600
800-370: Data processing services	72,100
800-410: Rental/maintenance of premises	1,899,400
800-430: Rental of furniture and equipment	26,300
800-440: Communications	166,000
800-460: Maintenance of furniture & equipment	135,500
800-490: Miscellaneous services	18,700
800-500: Supplies & materials	145,100
800-530: Library books & supplies	90,400
800-600: Furniture & equipment	147,100
800-621: Acquisition of office automation equipment	149,200
800-622: Replacement of office automation equipment	76,500
	3,937,900
TOTAL	20,261,700

X. EXAMINATION BY THE GENERAL ASSEMBLY OF THE PREVIOUS REPORT OF THE COURT

403. At the 41st plenary meeting of the fifty-fifth session of the General Assembly, held on 26 October 2000, at which the Assembly took note of the report of the Court for the period from 1 August 1999 to 31 July 2000, the President of the Court, Judge Gilbert Guillaume, addressed the General Assembly on the role and functioning of the Court (A/55/PV.41).

404. He launched a vigorous appeal to the United Nations General Assembly for additional resources for the Court, a forum which "is currently in greater demand than ever before". "The Court's financial and human resources are no longer sufficient for it to fulfil its task properly. If it does not receive the necessary resources, it will find itself obliged, beginning in 2001, to delay passing judgment in a number of cases that will be ready for decision. From 2002, those delays may well last several years in some cases", President Guillaume stated. "I am thus obliged to sound the alarm before you today", he added. "In many countries, the judiciary presides in sumptuous historic monuments but at times lacks the financial resources necessary for its mission. That is the case of the International Court of Justice. It is for you to decide whether the Court, the principal judicial organ of the United Nations, is to die a slow death or whether you will give it the wherewithal to live." President Guillaume announced that the Court was planning to seek supplementary credits and a budget increase on the order of 3 million dollars per year for the next biennium (2002-2003), increasing its biennial budget from 20 to slightly more than 26 million dollars and its staff from 61 to 99 posts. "The Court is well aware of the financial difficulties encountered by the United Nations. It has taken these into account in the past in limiting its requests", its President stressed. "The current growth in litigation will however require much greater increases in staff. Unlike other United Nations organs, the Court cannot adapt its programmes to its available resources. Its resources must be adjusted to meet the legitimate expectations of the States that turn to it", he maintained.

405. During the period under review for the Report (1 August 1999-31 July 2000) the Court worked at a sustained pace, according to its President. It ruled in a dispute that had been submitted to it in May 1996 by Botswana and Namibia concerning the island of Kasikili/Sedudu; it delivered a Judgment on its jurisdiction in a case filed in September 1999 by Pakistan against India as a result of the destruction of a Pakistani aircraft; t indicated various provisional measures in a dispute opposing the Democratic Republic of the Congo (DRC) to Uganda; it further heard five weeks of oral argument in the case between Qatar and Bahrain. "Thus, the Court has been able to consider or commence its consideration of all cases that were ready for hearing", President Guillaume stated. "Unfortunately, the coming months promise to be more difficult. Thus, while ten cases appeared on the Court's List in 1994 and 12 in 1998, we saw an increase to 25 at the end of 1999, a new record in the annals of international justice, and 24 remain on the docket today". Turning then to the place of the International Court of Justice in the current system of international law, the President of the Court warned the General Assembly against the risks to the cohesiveness of international law raised by the proliferation of courts. This phenomenon, President Guillaume explained, "leads to cases of overlapping jurisdiction, opening the way for applicant States to seek out those courts which they believe, rightly or wrongly, to be more amenable to their arguments ("forum shopping") . . . [it] exacerbates the risk of conflicting judgments, as a given issue may be submitted to two courts at the same time and they may hand down inconsistent judgments . . . Finally, [it] gives rise to a serious risk of conflicting jurisprudence, as the same rule of law might be given different interpretations in different cases". Anxious to uphold the cohesiveness of international law, President Guillaume made some proposals. First, he said, "the international legislator should, before creating a new court, . . . ask itself whether the functions it intends to entrust to the court could not properly be fulfilled by an existing court". He insisted on the need to create a dialogue among judicial bodies in order to help judges "realize the danger of fragmentation in the law". Finally, the President of the Court pleaded in favour of more structured relations between international tribunals, which could be encouraged to seek advisory opinions from the Court, by way of the Security Council or the General Assembly.

406. Following the presentation of the Court's report by its President, the representatives of Japan, Costa Rica, Singapore, India, Guatemala, Nigeria, Pakistan, Peru, Lesotho, Qatar, Brazil and Mexico made statements.

407. More comprehensive information on the work of the Court during the period under review will be found in the I.C.J. Yearbook 2000-2001, to be issued in due course.

Gilbert GUILLAUME,
President of the International
Court of Justice.

The Hague, 6 August 2001

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